

Adopted	Rejected
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COMMITTEE REPORT

YES:	8
NO:	6

MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred House Bill 1003, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-16-7-1 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Any firm,
- 5 individual, partnership, limited liability company, or corporation that
- 6 is awarded a contract by the state, a political subdivision, or a
- 7 municipal corporation for the construction of a public work, and any
- 8 subcontractor of the construction, shall pay for each class of work
- 9 described in subsection (c)(1) on the project a scale of wages that may
- 10 not be less than the common construction wage.
- 11 (b) For the purpose of ascertaining what the common construction
- 12 wage is in the county, the awarding governmental agency, before
- 13 advertising for the contract, shall set up a committee of five (5) persons
- 14 as follows:
- 15 (1) One (1) person representing labor, to be named by the

- 1 president of the state federation of labor.
- 2 (2) One (1) person representing industry, to be named by the
- 3 awarding agency.
- 4 (3) A third member to be named by the governor.
- 5 (4) One (1) taxpayer who pays the tax that will be the funding
- 6 source for the project and resides in the county where the project
- 7 is located. The owner of the project shall make the appointment
- 8 under this subdivision.
- 9 (5) One (1) taxpayer who pays the tax that will be the funding
- 10 source for the project and resides in the county where the project
- 11 is located. The legislative body (as defined in IC 36-1-2-9) for the
- 12 county where the project is located shall make the appointment
- 13 under this subdivision.
- 14 (c) As soon as appointed, the committee shall meet in the county
- 15 where the project is located and, **using a procedure that meets the**
- 16 **requirements set forth in section 1.5 of this chapter, shall** determine
- 17 in writing the following:
- 18 (1) A classification of the labor to be employed in the
- 19 performance of the contract for the project, divided into the
- 20 following three (3) classes:
- 21 (A) Skilled labor.
- 22 (B) Semiskilled labor.
- 23 (C) Unskilled labor.
- 24 (2) The wage per hour to be paid each of the classes.
- 25 **In making its determination, the committee is not required to shall**
- 26 consider **only** information ~~not~~ presented to the committee at the
- 27 meeting **that is conducted in accordance with section 1.5 of this**
- 28 **chapter.** IC 5-14-1.5 (open door law) applies to a meeting of the
- 29 committee.
- 30 (d) The rate of wages determined under subsection (c) shall not be
- 31 less than the common construction wage for each of the three (3)
- 32 classes of wages described in subsection (c) that are currently being
- 33 paid in the county where the project is located.
- 34 (e) The provisions of this chapter shall not apply to contracts let by
- 35 the Indiana department of transportation for the construction of
- 36 highways, streets, and bridges. IC 8-23-9 applies to state highway
- 37 projects.
- 38 (f) A determination under subsection (c) shall be made and filed

with the awarding agency at least two (2) weeks prior to the date fixed for the letting, and a copy of the determination shall be furnished upon request to any person desiring to bid on the contract. The schedule is open to the inspection of the public.

(g) If the committee appointed under subsection (b) fails to act and to file a determination under subsection (c) at or before the time required under subsection (f), the awarding agency shall make the determination. ~~and its finding shall be final.~~

(h) **If a person has substantial reason to believe that a committee's determination under subsection (c) or an awarding agency's determination under subsection (g) does not comply with this chapter, the person may request, not later than ten (10) days after the date of the determination, that the department of labor review the determination:**

- (1) to determine whether it complies with this chapter; and**
- (2) if the determination does not comply with this chapter, to establish the rate of wages for the project.**

(i) It shall be a condition of a contract awarded under this chapter that the successful bidder and all subcontractors shall comply strictly with the determination made under this section.

~~(j)~~ (j) The provisions of this chapter do not apply to public projects in this state that would otherwise be subject to the provisions of this chapter that are to be paid for in whole or in part with funds granted by the federal government, unless the department of the federal government making the grant shall consent in writing that the provisions of this chapter are applicable to the project.

~~(j)~~ (k) Notwithstanding any other law, the provisions of this chapter apply to projects that will be:

- (1) owned entirely; or
- (2) leased with an option to purchase;

by the state or a political subdivision (as defined in IC 36-1-2-13).

~~(k)~~ (l) Notwithstanding any other law, this chapter does not apply to projects in which the actual construction costs less than one hundred fifty thousand dollars (\$150,000).

SECTION 2. IC 5-16-7-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. In making the determination required under section 1(c) of this chapter, the committee shall use a procedure**

that meets the following requirements:

(1) The committee shall consider the following as evidence of the common construction wage currently being paid in the county where the project is located:

(A) Data presented by the department of workforce development.

(B) Collective bargaining agreements, if applicable.

(C) Other information submitted by interested parties.

(2) The evidence considered by the committee under subdivision (1) is limited to the wages and benefits currently being paid by construction industry employers.

(3) All testimony presented to the committee must be made under oath or affirmation.

(4) Any part of the evidence may be submitted in written form if doing so will expedite the meeting.

(5) Documentary evidence may be received in the form of a copy or an excerpt.

(6) To the extent necessary for full disclosure of all relevant facts and issues, the committee shall afford all interested parties the opportunity to present evidence and arguments and to respond to evidence presented by other interested parties.

(7) The committee's written determination must list the evidence or sources that the committee relied upon in making the determination.

SECTION 3. IC 5-16-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The definitions in this section apply throughout this chapter:

(1) "Common construction wage" means a scale of wages for each class of work described in section 1(c)(1) of this chapter that is not less than the common construction wage of all construction wages being paid in the county where a project is located, as determined by the committee described in section 1(b) of this chapter, after having considered:

~~(A) reports from the department of workforce development;~~
and

~~(B) any other information submitted by any person to the committee established under section 1(b) of this chapter.~~

1 **using a procedure that meets the requirements set forth in**
 2 **section 1.5 of this chapter.**

3 (2) "State of Indiana" includes any officer, board, commission, or
 4 other agency authorized by law to award contracts for the
 5 performance of public work on behalf of the state, excepting as
 6 otherwise provided in this chapter.

7 (3) "Municipal corporation" includes any county, city, town, or
 8 school corporation, as well as any officer, board, commission, or
 9 other agency authorized by law to award contracts for the
 10 performance of public work on behalf of any such municipal
 11 corporation. The term also includes a redevelopment commission
 12 established under IC 36-7-14-3.

13 (4) "Public work" includes any public building, highway, street,
 14 alley, bridge, sewer, drain, improvement, or any other work of any
 15 nature or character whatsoever which is paid for out of public
 16 funds, excepting as otherwise provided in this chapter.

17 SECTION 4. IC 5-16-7-6 IS ADDED TO THE INDIANA CODE
 18 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2003]: **Sec. 6. The department of labor shall adopt rules under**
 20 **IC 4-22-2 to implement this chapter.**

21 SECTION 5. IC 22-1-1-22 IS ADDED TO THE INDIANA CODE
 22 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2003]: **Sec. 22. The commissioner of labor shall do the following:**

24 **(1) Verify compliance with and investigate matters related to**
 25 **IC 22-3-2-14.5, IC 22-3-2-14.6, IC 22-3-7-34.5, and**
 26 **IC 22-3-7-34.6.**

27 **(2) Hire additional staff for the purpose of carrying the**
 28 **enforcement of IC 22-3-2-14.5, IC 22-3-2-14.6, IC 22-3-7-34.5,**
 29 **and IC 22-3-7-34.6.**

30 **(3) Adopt rules under IC 4-22-2 to implement IC 22-3-2-14.6**
 31 **and IC 22-3-7-34.6.**

32 SECTION 6. IC 22-3-1-1 IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is hereby created the
 34 worker's compensation board of Indiana, which shall consist of seven
 35 (7) members, not more than four (4) of whom shall belong to the same
 36 political party, appointed by the governor, one (1) of whom ~~he~~ **the**
 37 **governor** shall designate as ~~chairman~~ **chair**. The ~~chairman~~ **chair** of
 38 said board shall be an attorney of recognized qualifications.

1 (b) Each member of said board shall hold office for four (4) years
2 and until ~~his~~ **the member's** successor is appointed and qualified.

3 (c) Each member of the board shall devote ~~his~~ **the member's** entire
4 time to the discharge of the duties of ~~his~~ **the member's** office and shall
5 not hold any other position of trust or profit or engage in any
6 occupation or business interfering with or inconsistent with the
7 discharge of ~~his~~ **the member's** duties as such member.

8 (d) Any member of said board may be removed by the governor at
9 any time for incompetency, neglect of duty, misconduct in office, or
10 other good cause to be stated in writing in the order of removal. In case
11 of a vacancy in the membership of the said board, the governor shall
12 appoint for the unexpired term.

13 (e) The budget agency, with the approval of the governor, shall
14 approve the salaries of the members of the board and the secretary.

15 (f) The board may appoint a secretary and may remove such
16 secretary. The secretary shall have authority to administer oaths and
17 issue subpoenas in connection with the administration of IC 22-3-2
18 through IC 22-3-7.

19 (g) **The board may appoint magistrates and may remove the**
20 **magistrates.**

21 (h) The board, subject to the approval of the governor, may employ
22 and fix the compensations of such clerical and other assistants as it may
23 deem necessary.

24 ~~(h)~~ (i) The members of the board and its assistants shall be entitled
25 to receive from the state their actual and necessary expenses while
26 traveling on the business of the board, but such expenses shall be
27 approved by the chairman of the board before payment is made.

28 ~~(i)~~ (j) All salaries and expenses of the board shall be audited and
29 paid out of the state treasury in the manner prescribed for similar
30 expenses in other departments or branches of the state service.

31 SECTION 7. IC 22-3-1-3 IS AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The worker's compensation
33 board may adopt rules under IC 4-22-2 to carry into effect the worker's
34 compensation law (IC 22-3-2 through IC 22-3-6) and the worker's
35 occupational diseases law (IC 22-3-7).

36 (b) The worker's compensation board is authorized:

37 (1) to hear, determine, and review all claims for compensation
38 under IC 22-3-2 through IC 22-3-7;

- 1 (2) to require medical service for injured employees;
- 2 (3) to approve claims for medical service or attorney's fees and
- 3 the charges for nurses and hospitals;
- 4 (4) to approve agreements;
- 5 (5) to modify or change awards;
- 6 (6) to make conclusions of facts and rulings of law;
- 7 (7) to certify questions of law to the court of appeals;
- 8 (8) to approve deductions in compensation made by employers for
- 9 amounts paid in excess of the amount required by law;
- 10 (9) to approve agreements between an employer and an employee
- 11 or the employee's dependents for the cash payment of
- 12 compensation in a lump sum, or, in the case of a person under
- 13 eighteen (18) years of age, to order cash payments;
- 14 (10) to establish and maintain a list of independent medical
- 15 examiners and to order physical examinations;
- 16 (11) to subpoena witnesses **and order the production and**
- 17 **examination of books, papers, and records;**
- 18 (12) to administer oaths;
- 19 (13) to apply to the circuit or superior court to enforce the
- 20 attendance and testimony of witnesses and the production and
- 21 examination of books, papers, and records;
- 22 (14) to create and undertake a program designed to educate and
- 23 provide assistance to employees and employers regarding the
- 24 rights and remedies provided by IC 22-3-2 through IC 22-3-7, and
- 25 to provide for informal resolution of disputes;
- 26 (15) to assess and collect, on the board's own initiative or on the
- 27 motion of a party, the penalties provided for in IC 22-3-2 through
- 28 IC 22-3-7; ~~and~~
- 29 **(16) to appoint board magistrates to determine issues arising**
- 30 **under IC 22-3-2 through IC 22-3-7 subject to the limitations**
- 31 **set forth in section 3.1(b) of this chapter; and**
- 32 **(17) to exercise all other powers and duties conferred upon the**
- 33 **board by law.**

34 SECTION 8. IC 22-3-1-3.1 IS ADDED TO THE INDIANA CODE
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 36 1, 2003]: **Sec. 3.1. (a) A magistrate appointed by the worker's**
 37 **compensation board may do the following:**

- 38 **(1) Administer an oath or affirmation that is required by law.**

1 **(2) Order that a subpoena be issued in a matter pending**
 2 **before the board.**

3 **(3) Verify a certificate for the authentication of records of a**
 4 **proceeding conducted by the magistrate.**

5 **(b) A magistrate appointed by the worker's compensation board**
 6 **may do the following:**

7 **(1) Conduct a prehearing conference or an evidentiary**
 8 **hearing.**

9 **(2) Determine issues arising under IC 22-3-2 through**
 10 **IC 22-3-7 with the following exceptions:**

11 **(A) Claims regarding the compensability of an injury or a**
 12 **disease arising out of and in the course of employment**
 13 **under IC 22-3-2-2(a) or IC 22-3-7-2(a).**

14 **(B) A determination as to whether one (1) of the special**
 15 **defenses contained in IC 22-3-2-8 or IC 22-3-7-21(b)**
 16 **operates as a bar to the employee's claim.**

17 **(C) A determination as to whether the employee is**
 18 **permanently and totally disabled for purposes of**
 19 **IC 22-3-3-10, IC 22-3-3-13, or IC 22-3-7-16.**

20 **(D) The approval of settlement agreements under**
 21 **IC 22-3-2-15.**

22 **(E) Issues involving a lack of diligence, bad faith, or an**
 23 **independent tort under IC 22-3-4-12.1.**

24 **SECTION 9. IC 22-3-1-3.2 IS ADDED TO THE INDIANA CODE**
 25 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 26 **1, 2003]: Sec. 3.2. A magistrate shall report the magistrate's**
 27 **findings in an evidentiary hearing to the board. A board member**
 28 **shall enter the final order or award. The final order or award is**
 29 **subject to full board review under IC 22-3-4-7.**

30 **SECTION 10. IC 22-3-2-2.5, AS ADDED BY P.L.235-1999,**
 31 **SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 32 **JULY 1, 2003]: Sec. 2.5. (a) As used in this section, "school to work**
 33 **student" refers to a student participating in on-the-job training under**
 34 **the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).**

35 **(b) Except as provided in IC 22-3-7-2.5, a school to work student is**
 36 **entitled to the following compensation and benefits under this article:**

37 **(1) Medical benefits under IC 22-3-2 through IC 22-3-6.**

38 **(2) Permanent partial impairment compensation under**

IC 22-3-3-10. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000), **subject to section 8(c) of this chapter**, payable upon agreement or final award to any dependents of the student under IC 22-3-3-18 through IC 22-3-3-20, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under IC 22-3-3-21.

(c) For the sole purpose of modifying an award under IC 22-3-3-27, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this article:

(1) Temporary total disability compensation under IC 22-3-3-8.

(2) Temporary partial disability compensation under IC 22-3-3-9.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of personal injury or death by accident arising out of and in the course of school to work employment.

SECTION 11. IC 22-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) ~~No~~ **Each payment of compensation is allowed under IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 is reduced by twenty percent (20%)** for an injury or death due to the employee's:

(1) ~~knowingly self-inflicted injury, his~~ intoxication;

(2) ~~his~~ commission of an offense; ~~his~~

(3) knowing **and willful** failure to use a safety appliance;

(4) ~~his~~ knowing **and willful** failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work; or

(5) ~~his~~ knowing **and willful** failure to perform any statutory duty.

~~The burden of proof is on the defendant.~~

1 **(b) No compensation is allowed for an employee's knowing and**
 2 **willful self-inflicted injury or death.**

3 **(c) Each payment of compensation allowed under IC 22-3-3-8,**
 4 **IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 shall be increased by**
 5 **thirty percent (30%) for an injury or a death due to the employer's**
 6 **intentional failure to comply with a statute or an administrative**
 7 **regulation regarding safety methods or installation or maintenance**
 8 **of safety appliances.**

9 **(d) The defendant has the burden of proof under subsections (a)**
 10 **and (b).**

11 SECTION 12. IC 22-3-2-14.5, AS AMENDED BY P.L.202-2001,
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2003]: Sec. 14.5. (a) As used in this section, "independent
 14 contractor" refers to a person described in IC 22-3-6-1(b)(7).

15 (b) As used in this section, "person" means an individual, a
 16 proprietorship, a partnership, a joint venture, a firm, an association, a
 17 corporation, or other legal entity.

18 (c) An independent contractor who does not make an election under
 19 IC 22-3-6-1(b)(4) or IC 22-3-6-1(b)(5) is not subject to the
 20 compensation provisions of IC 22-3-2 through IC 22-3-6 and must file
 21 a statement with the department of state revenue in accordance with
 22 IC 6-3-7-5 and obtain a certificate of exemption.

23 (d) Together with the statement required in subsection (c), an
 24 independent contractor shall file annually with the department
 25 documentation in support of independent contractor status before being
 26 granted a certificate of exemption. The independent contractor must
 27 obtain clearance from the department of state revenue before issuance
 28 of the certificate.

29 (e) An independent contractor shall pay a filing fee in the amount
 30 of fifteen dollars (\$15) with the certificate filed under subsection (g).
 31 The fees collected under this subsection shall be deposited in the
 32 worker's compensation supplemental administrative fund. ~~and~~
 33 **Thirty-four percent (34%) of the money in the fund shall be used**
 34 **allocated for all expenses the board incurs in administering this**
 35 **section. Sixty-six percent (66%) of the money in the fund shall be**
 36 **allocated for the enforcement of section 14.6 of this chapter,**
 37 **including the costs of hiring additional staff required by the**
 38 **department of labor.**

1 (f) The worker's compensation board shall maintain a data base
 2 consisting of certificates received under this section and on request
 3 may verify that a certificate was filed.

4 (g) A certificate of exemption must be filed with the worker's
 5 compensation board. The board shall indicate that the certificate has
 6 been filed by stamping the certificate with the date of receipt and
 7 returning a stamped copy to the person filing the certificate. A
 8 certificate becomes effective as of midnight seven (7) business days
 9 after the date file stamped by the worker's compensation board. The
 10 board shall maintain a data base containing the information required in
 11 subsections (d) and (f).

12 (h) A person who contracts for services of another person not
 13 covered by IC 22-3-2 through IC 22-3-6 to perform work must secure
 14 a copy of a stamped certificate of exemption filed under this section
 15 from the person hired. A person may not require a person who has
 16 provided a stamped certificate to have worker's compensation
 17 coverage. The worker's compensation insurance carrier of a person who
 18 contracts with an independent contractor shall accept a stamped
 19 certificate in the same manner as a certificate of insurance.

20 (i) A stamped certificate filed under this section is binding on and
 21 holds harmless from all claims:

22 (1) a person who contracts with an independent contractor after
 23 receiving a copy of the stamped certificate; and

24 (2) the worker's compensation insurance carrier of the person who
 25 contracts with the independent contractor.

26 The independent contractor may not collect compensation under
 27 IC 22-3-2 through IC 22-3-6 for an injury from a person or the person's
 28 worker's compensation carrier to whom the independent contractor has
 29 furnished a stamped certificate.

30 SECTION 13. IC 22-3-2-14.6 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2003]: **Sec. 14.6. (a) As used in this section,**
 33 **"person" has the meaning set forth in section 14.5 of this chapter.**

34 **(b) A person who does any of the following is subject to a civil**
 35 **penalty under this section:**

36 **(1) Fails to obtain a copy of another person's stamped**
 37 **certificate of exemption as required under section 14.5(h) of**
 38 **this chapter before that person performs work on the person's**

1 **behalf as an independent contractor.**

2 **(2) Fails to keep a copy of another person's stamped**
 3 **certificate of exemption on file as long as that person is**
 4 **performing work on the person's behalf as an independent**
 5 **contractor.**

6 **(c) If the department of labor determines that a person has**
 7 **violated subsection (b)(1) or (b)(2), the department of labor may**
 8 **assess a civil penalty of not more than one thousand dollars**
 9 **(\$1,000) for each violation, plus any investigative costs incurred**
 10 **and documented by the department of labor. If the department of**
 11 **labor determines that a civil penalty is warranted, the department**
 12 **of labor shall consider the following factors in determining the**
 13 **amount of the penalty:**

14 **(1) Whether the person performing work as an independent**
 15 **contractor meets the definition of an independent contractor**
 16 **under IC 22-3-6-1(b)(7).**

17 **(2) Whether the violation was an isolated event or part of a**
 18 **pattern of violations.**

19 **(d) All civil penalties collected under this section shall be**
 20 **deposited in the worker's compensation board's second injury fund**
 21 **created under IC 22-3-3-13.**

22 **(e) A civil penalty assessed under subsection (c):**

23 **(1) is subject to IC 4-21.5-2-6; and**

24 **(2) becomes effective without a proceeding under IC 4-21.5-3,**
 25 **unless a person requests an administrative review not later**
 26 **than thirty (30) days after the notice of assessment is given.**

27 **(f) The department of labor shall provide copies of its**
 28 **determinations under this section to the worker's compensation**
 29 **board and the department of state revenue.**

30 **SECTION 14. IC 22-3-3-4, AS AMENDED BY P.L.31-2000,**
 31 **SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 32 **JULY 1, 2003]: Sec. 4. (a) After an injury and prior to an adjudication**
 33 **of permanent impairment, the employer shall furnish or cause to be**
 34 **furnished, free of charge to the employee, an attending physician for**
 35 **the treatment of his the employee's injuries, and in addition thereto**
 36 **such surgical, hospital and nursing services and supplies as the**
 37 **attending physician or the worker's compensation board may deem**
 38 **necessary. If the employee is requested or required by the employer to**

1 submit to treatment outside the county of employment, the employer
 2 shall also pay the reasonable expense of travel, food, and lodging
 3 necessary during the travel, but not to exceed the amount paid at the
 4 time of the travel by the state to its employees under the state travel
 5 policies and procedures established by the department of
 6 administration and approved by the state budget agency. If the
 7 treatment or travel to or from the place of treatment causes a loss of
 8 working time to the employee, the employer shall reimburse the
 9 employee for the loss of wages using the basis of the employee's
 10 average daily wage.

11 (b) During the period of temporary total disability resulting from the
 12 injury, the employer shall furnish the physician services, and supplies,
 13 and the worker's compensation board may, on proper application of
 14 either party, require that treatment by the physician and services and
 15 supplies be furnished by or on behalf of the employer as the worker's
 16 compensation board may deem reasonably necessary.

17 (c) **After the employee's medical treatment begins, neither the**
 18 **employer nor the employer's insurance carrier has the right to**
 19 **transfer or otherwise redirect an employee's medical treatment to**
 20 **another physician unless:**

21 (1) **the employee makes the transfer request;**

22 (2) **the attending physician requests that the physician's**
 23 **treatment of the employee be discontinued; or**

24 (3) **the worker's compensation board determines that there is**
 25 **good cause for the transfer.**

26 (d) **If the employer or the employer's insurance carrier desires**
 27 **to transfer or redirect the employee's medical treatment for good**
 28 **cause, the employer or the employer's insurance carrier shall file**
 29 **a transfer request with the worker's compensation board on forms**
 30 **prescribed by the board. A transfer may not occur until the**
 31 **worker's compensation board issues an order granting the transfer**
 32 **request.**

33 (e) **A representative of the employer or the employer's insurance**
 34 **carrier, including a case manager or a rehabilitation nurse, may**
 35 **not attend or be present during the employee's medical treatment**
 36 **unless the representative complies with all the following**
 37 **provisions:**

38 (1) **Both the employee and the treating medical personnel**

1 **provide express written consent.**

2 **(2) The written consent described in subdivision (1) is**
 3 **required before the representative may attend or be present**
 4 **during the employee's medical treatment.**

5 **(3) The representative may not jeopardize or threaten to**
 6 **jeopardize the payment of the employee's compensation under**
 7 **this article because the employee fails or refuses to complete**
 8 **the written consent described in subdivision (1).**

9 **(4) The representative may not cause the employee to believe**
 10 **that the employee's compensation under this article may be**
 11 **terminated or reduced because the employee fails or refuses**
 12 **to complete the written consent described in subdivision (1).**

13 **(5) The representative shall obtain the written consents**
 14 **required by subdivision (1) on forms prescribed by the**
 15 **worker's compensation board.**

16 **(f)** After an employee's injury has been adjudicated by agreement or
 17 award on the basis of permanent partial impairment and within the
 18 statutory period for review in such case as provided in section 27 of
 19 this chapter, the employer may continue to furnish a physician or
 20 surgeon and other medical services and supplies, and the worker's
 21 compensation board may within the statutory period for review as
 22 provided in section 27 of this chapter, on a proper application of either
 23 party, require that treatment by that physician and other medical
 24 services and supplies be furnished by and on behalf of the employer as
 25 the worker's compensation board may deem necessary to limit or
 26 reduce the amount and extent of the employee's impairment. The
 27 refusal of the employee to accept such services and supplies, when
 28 provided by or on behalf of the employer, shall bar the employee from
 29 all compensation otherwise payable during the period of the refusal,
 30 and ~~his~~ **the employee's** right to prosecute any proceeding under
 31 IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the
 32 employee's refusal ceases. The employee must be served with a notice
 33 setting forth the consequences of the refusal under this section. The
 34 notice must be in a form prescribed by the worker's compensation
 35 board. No compensation for permanent total impairment, permanent
 36 partial impairment, permanent disfigurement, or death shall be paid or
 37 payable for that part or portion of the impairment, disfigurement, or
 38 death which is the result of the failure of the employee to accept the

1 treatment, services, and supplies required under this section. However,
 2 an employer may at any time permit an employee to have treatment for
 3 **his the employee's** injuries by spiritual means or prayer ~~in lieu~~ **instead**
 4 of the physician or surgeon and other medical services and supplies
 5 required under this section.

6 ~~(d)~~ **(g)** If, because of an emergency, or because of the employer's
 7 failure to provide an attending physician or surgical, hospital, or
 8 nursing services and supplies, or treatment by spiritual means or
 9 prayer, as required by this section, or because of any other good reason,
 10 a physician other than that provided by the employer treats the injured
 11 employee during the period of the employee's temporary total
 12 disability, or necessary and proper surgical, hospital, or nursing
 13 services and supplies are procured within the period, the reasonable
 14 cost of those services and supplies shall, subject to the approval of the
 15 worker's compensation board, be paid by the employer.

16 ~~(e)~~ **(h)** Regardless of when it occurs, where a compensable injury
 17 results in the amputation of a body part, the enucleation of an eye, or
 18 the loss of natural teeth, the employer shall furnish an appropriate
 19 artificial member, braces, and prosthodontics. The cost of repairs to or
 20 replacements for the artificial members, braces, or prosthodontics that
 21 result from a compensable injury pursuant to a prior award and are
 22 required due to either medical necessity or normal wear and tear,
 23 determined according to the employee's individual use, but not abuse,
 24 of the artificial member, braces, or prosthodontics, shall be paid from
 25 the second injury fund upon order or award of the worker's
 26 compensation board. The employee is not required to meet any other
 27 requirement for admission to the second injury fund.

28 ~~(f)~~ **(i)** If an accident arising out of and in the course of employment
 29 after June 30, 1997, results in the loss of or damage to an artificial
 30 member, a brace, an implant, eyeglasses, prosthodontics, or other
 31 medically prescribed device, the employer shall repair the artificial
 32 member, brace, implant, eyeglasses, prosthodontics, or other medically
 33 prescribed device or furnish an identical or a reasonably equivalent
 34 replacement.

35 ~~(g)~~ **(j)** This section may not be construed to prohibit an agreement
 36 between an employer and the employer's employees that has the
 37 approval of the board and that binds the parties to:

38 (1) medical care furnished by health care providers selected by

1 agreement before or after injury; or

2 (2) the findings of a health care provider who was chosen by
3 agreement.

4 SECTION 15. IC 22-3-3-6 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) After an injury
6 and during the period of claimed resulting disability or impairment, the
7 employee, if so requested by the employee's employer or ordered by the
8 industrial board, shall submit to an examination at reasonable times
9 and places by a duly qualified physician or surgeon designated and paid
10 by the employer or by order of the worker's compensation board. The
11 employee shall have the right to have present at any such examination
12 any duly qualified physician or surgeon provided and paid for by the
13 employee. No fact communicated to, or otherwise learned by, any
14 physician or surgeon who may have attended or examined the
15 employee, or who may have been present at any examination, shall be
16 privileged, either in the hearings provided for in IC 22-3-2 through
17 IC 22-3-6, or in any action at law brought to recover damages against
18 any employer who is subject to the compensation provisions of
19 IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in
20 any way obstructs such examinations, the employee's right to
21 compensation and ~~his~~ **the employee's** right to take or prosecute any
22 proceedings under IC 22-3-2 through IC 22-3-6 shall be suspended
23 until such refusal or obstruction ceases. No compensation shall at any
24 time be payable for the period of suspension unless in the opinion of
25 the worker's compensation board the circumstances justified the refusal
26 or obstruction. The employee must be served with a notice setting forth
27 the consequences of the refusal under this subsection. The notice must
28 be in a form prescribed by the board.

29 (b) Any employer requesting an examination of any employee
30 residing within Indiana shall pay, in advance of the time fixed for the
31 examination, sufficient money to defray the necessary expenses of
32 travel by the most convenient means to and from the place of
33 examination, and the cost of meals and lodging necessary during the
34 travel. If the method of travel is by automobile, the mileage rate to be
35 paid by the employer shall be the rate currently being paid by the state
36 to its employees under the state travel policies and procedures
37 established by the department of administration and approved by the
38 budget agency. If such examination or travel to or from the place of

1 examination causes any loss of working time on the part of the
2 employee, the employer shall reimburse the employee for such loss of
3 wages upon the basis of the employee's average daily wage. When any
4 employee injured in Indiana moves outside Indiana, the travel expense
5 and the cost of meals and lodging necessary during the travel payable
6 under this section shall be paid from the point in Indiana nearest to the
7 employee's then residence to the place of examination. No travel and
8 other expense shall be paid for any travel and other expense required
9 outside Indiana.

10 (c) A duly qualified physician or surgeon provided and paid for by
11 the employee may be present at an examination if the employee so
12 desires. In all cases where the examination is made by a physician or
13 surgeon engaged by the employer and the injured employee has no
14 physician or surgeon present at such examination, it shall be the duty
15 of the physician or surgeon making the examination to deliver to the
16 injured employee, or the employee's representative, a statement in
17 writing of the conditions evidenced by such examination. The
18 statement shall disclose all facts that are reported by such physician or
19 surgeon to the employer. Such statement shall be furnished to the
20 employee or the employee's representative, as soon as practicable, but
21 not later than thirty (30) days before the time the case is set for hearing.
22 The statement may be submitted by either party as evidence by that
23 physician or surgeon at a hearing before the worker's compensation
24 board if the statement meets the requirements of subsection (e). If such
25 physician or surgeon fails or refuses to furnish the employee or the
26 employee's representative with such statement thirty (30) days before
27 the hearing, then the statement may not be submitted as evidence, and
28 such physician or surgeon shall not be permitted to testify before the
29 worker's compensation board as to any facts learned in such
30 examination. All of the requirements of this subsection apply to all
31 subsequent examinations requested by the employer.

32 (d) In all cases where an examination of an employee is made by a
33 physician or surgeon engaged by the employee, and the employer has
34 no physician or surgeon present at such examination, it shall be the
35 duty of the physician or surgeon making the examination to deliver to
36 the employer or the employer's representative a statement in writing of
37 the conditions evidenced by such examination. The statement shall
38 disclose all facts that are reported by such physician or surgeon to the

employee. Such statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (e). If such physician or surgeon fails or refuses to furnish the employer, or the employer's representative, with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the industrial board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

(e) A representative of the employer or the employer's insurance carrier, including a case manager or a rehabilitation nurse, may not attend or be present during the employee's medical treatment unless the representative complies with all the following provisions:

(1) Both the employee and the treating medical personnel provide express written consent.

(2) The written consent described in subdivision (1) is required before the representative may attend or be present during the employee's medical treatment.

(3) The representative may not jeopardize or threaten to jeopardize the payment of the employee's compensation under this article because the employee fails or refuses to complete the written consent described in subdivision (1).

(4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).

(5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.

(f) All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

(1) The history of the injury, or claimed injury, as given by the

- 1 patient.
- 2 (2) The diagnosis of the physician or surgeon concerning the
- 3 patient's physical or mental condition.
- 4 (3) The opinion of the physician or surgeon concerning the causal
- 5 relationship, if any, between the injury and the patient's physical
- 6 or mental condition, including the physician's or surgeon's reasons
- 7 for the opinion.
- 8 (4) The opinion of the physician or surgeon concerning whether
- 9 the injury or claimed injury resulted in a disability or impairment
- 10 and, if so, the opinion of the physician or surgeon concerning the
- 11 extent of the disability or impairment and the reasons for the
- 12 opinion.
- 13 (5) The original signature of the physician or surgeon.
- 14 Notwithstanding any hearsay objection, the worker's compensation
- 15 board shall admit into evidence a statement that meets the requirements
- 16 of this subsection unless the statement is ruled inadmissible on other
- 17 grounds.
- 18 ~~(f)~~ (g) Delivery of any statement required by this section may be
- 19 made to the attorney or agent of the employer or employee and such
- 20 action shall be construed as delivery to the employer or employee.
- 21 ~~(g)~~ (h) Any party may object to a statement on the basis that the
- 22 statement does not meet the requirements of subsection ~~(e)~~. (f). The
- 23 objecting party must give written notice to the party providing the
- 24 statement and specify the basis for the objection. Notice of the
- 25 objection must be given no later than twenty (20) days before the
- 26 hearing. Failure to object as provided in this subsection precludes any
- 27 further objection as to the adequacy of the statement under subsection
- 28 ~~(e)~~. (f).
- 29 ~~(h)~~ (i) The employer upon proper application, or the worker's
- 30 compensation board, shall have the right in any case of death to require
- 31 an autopsy at the expense of the party requesting the same. If, after a
- 32 hearing, the worker's compensation board orders an autopsy and such
- 33 autopsy is refused by the surviving spouse or next of kin, then any
- 34 claim for compensation on account of such death shall be suspended
- 35 and abated during such refusal. The surviving spouse or dependent
- 36 must be served with a notice setting forth the consequences of the
- 37 refusal under this subsection. The notice must be in a form prescribed
- 38 by the worker's compensation board. No autopsy, except one performed

1 by or on the authority or order of the coroner in the discharge of the
2 coroner's duties, shall be held in any case by any person, without notice
3 first being given to the surviving spouse or next of kin, if they reside in
4 Indiana or their whereabouts can reasonably be ascertained, of the time
5 and place thereof, and reasonable time and opportunity given such
6 surviving spouse or next of kin to have a representative or
7 representatives present to witness same. However, if such notice is not
8 given, all evidence obtained by such autopsy shall be suppressed on
9 motion duly made to the worker's compensation board.

10 SECTION 16. IC 22-3-3-7 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Compensation
12 shall be allowed on account of injuries producing only temporary total
13 disability to work or temporary partial disability to work beginning
14 with the eighth (8th) day of such disability except for medical benefits
15 provided in section 4 of the chapter. Compensation shall be allowed for
16 the first seven (7) calendar days only if the disability continues for
17 longer than twenty-one (21) days.

18 (b) The first weekly installment of compensation for temporary
19 disability is due fourteen (14) days after the disability begins. Not later
20 than fifteen (15) days from the date that the first installment of
21 compensation is due, the employer or the employer's insurance carrier
22 shall tender to the employee or to the employee's dependents, with all
23 compensation due, a properly prepared compensation agreement in a
24 form prescribed by the board. Whenever an employer or the employer's
25 insurance carrier denies or is not able to determine liability to pay
26 compensation or benefits, the employer or the employer's insurance
27 carrier shall notify the worker's compensation board and the employee
28 in writing on a form prescribed by the worker's compensation board not
29 later than thirty (30) days after the employer's knowledge of the
30 claimed injury. If a determination of liability cannot be made within
31 thirty (30) days, the worker's compensation board may approve an
32 additional thirty (30) days upon a written request of the employer or the
33 employer's insurance carrier that sets forth the reasons that the
34 determination could not be made within thirty (30) days and states the
35 facts or circumstances that are necessary to determine liability within
36 the additional thirty (30) days. More than thirty (30) days of additional
37 time may be approved by the worker's compensation board upon the
38 filing of a petition by the employer or the employer's insurance carrier

1 that sets forth:

- 2 (1) the extraordinary circumstances that have precluded a
- 3 determination of liability within the initial sixty (60) days;
- 4 (2) the status of the investigation on the date the petition is filed;
- 5 (3) the facts or circumstances that are necessary to make a
- 6 determination; and
- 7 (4) a timetable for the completion of the remaining investigation.

8 **If a determination of liability is not made within thirty (30) days**
 9 **after the date of injury, and the employer is subsequently**
 10 **determined to be liable to pay compensation, the first installment**
 11 **of compensation must include the accrued weekly compensation**
 12 **and interest at the legal rate of interest specified in IC 24-4.6-1-101**
 13 **computed from the date fourteen (14) days after the disability**
 14 **begins.** An employer who fails to comply with this section is subject to
 15 a civil penalty of fifty dollars (\$50), to be assessed and collected by the
 16 board upon notice and hearing. Civil penalties collected under this
 17 section shall be deposited in the state general fund.

18 (c) Once begun, temporary total disability benefits may not be
 19 terminated by the employer unless:

- 20 (1) the employee has returned to any employment;
- 21 (2) the employee has died;
- 22 (3) the employee has refused to undergo a medical examination
- 23 under section 6 of this chapter or has refused to accept suitable
- 24 employment under section 11 of this chapter;
- 25 (4) the employee has received five hundred (500) weeks of
- 26 temporary total disability benefits or has been paid the maximum
- 27 compensation allowed under section 22 of this chapter; ~~or~~
- 28 (5) the employee is unable or unavailable to work for reasons
- 29 unrelated to the compensable injury; ~~or~~
- 30 **(6) the employee returns to work with limitations or**
- 31 **restrictions, and the employer converts temporary total**
- 32 **disability or temporary partial disability compensation into**
- 33 **disabled from trade compensation under section 33 of this**
- 34 **chapter.**

35 In all other cases the employer must notify the employee in writing **not**
 36 **later than thirty (30) days before the effective date of the**
 37 **termination** of the employer's intent to terminate the payment of
 38 temporary total disability benefits and of the availability of

1 employment, if any, on a form approved by the board. If the employee
2 disagrees with the proposed termination, the employee must give
3 written notice of disagreement to the board and the employer within
4 seven (7) days after receipt of the notice of intent to terminate benefits.
5 If the board and employer do not receive a notice of disagreement
6 under this section, the employee's temporary total disability benefits
7 shall be terminated. Upon receipt of the notice of disagreement, the
8 board shall immediately contact the parties, which may be by telephone
9 or other means, and attempt to resolve the disagreement. If the board
10 is unable to resolve the disagreement within ten (10) days of receipt of
11 the notice of disagreement, the board shall immediately arrange for an
12 evaluation of the employee by an independent medical examiner. The
13 independent medical examiner shall be selected by mutual agreement
14 of the parties or, if the parties are unable to agree, appointed by the
15 board under IC 22-3-4-11. If the independent medical examiner
16 determines that the employee is no longer temporarily disabled or is
17 still temporarily disabled but can return to employment that the
18 employer has made available to the employee, or if the employee fails
19 or refuses to appear for examination by the independent medical
20 examiner, temporary total disability benefits may be terminated. If
21 either party disagrees with the opinion of the independent medical
22 examiner, the party shall apply to the board for a hearing under
23 IC 22-3-4-5.

24 (d) An employer is not required to continue the payment of
25 temporary total disability benefits for more than fourteen (14) days
26 after the employer's proposed termination date unless the independent
27 medical examiner determines that the employee is temporarily disabled
28 and unable to return to any employment that the employer has made
29 available to the employee.

30 (e) If it is determined that as a result of this section temporary total
31 disability benefits were overpaid, the overpayment shall be deducted
32 from any benefits due the employee under section 10 of this chapter
33 and, if there are no benefits due the employee or the benefits due the
34 employee do not equal the amount of the overpayment, the employee
35 shall be responsible for paying any overpayment which cannot be
36 deducted from benefits due the employee.

37 SECTION 17. IC 22-3-3-8 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) With respect to

1 injuries occurring prior to April 1, 1951, causing temporary total
 2 disability for work there shall be paid to the injured employee during
 3 such total disability for work a weekly compensation equal to fifty-five
 4 percent (55%) of ~~his~~ **the injured employee's** average weekly wages for
 5 a period not to exceed five hundred (500) weeks. With respect to
 6 injuries occurring on and after April 1, 1951, and prior to July 1, 1971,
 7 causing temporary total disability for work there shall be paid to the
 8 injured employee during such total disability a weekly compensation
 9 equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average
 10 weekly wages for a period not to exceed five hundred (500) weeks.
 11 With respect to injuries occurring on and after July 1, 1971, and prior
 12 to July 1, 1974, causing temporary total disability for work there shall
 13 be paid to the injured employee during such total disability a weekly
 14 compensation equal to sixty per cent (60%) of ~~his~~ **the injured**
 15 **employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~ **section**
 16 **22 of this chapter** a period not to exceed five hundred (500) weeks.
 17 With respect to injuries occurring on and after July 1, 1974, and before
 18 July 1, 1976, causing temporary total disability or total permanent
 19 disability for work there shall be paid to the injured employee during
 20 such total disability a weekly compensation equal to sixty-six and
 21 two-thirds percent (66 2/3%) of ~~his~~ **the injured employee's** average
 22 weekly wages up to one hundred ~~and~~ thirty-five dollars (~~\$135.00~~)
 23 **(\$135)** average weekly wages, as defined in section 22 of this chapter,
 24 for a period not to exceed five hundred (500) weeks. With respect to
 25 injuries occurring on and after July 1, 1976, causing temporary total
 26 disability or total permanent disability for work, there shall be paid to
 27 the injured employee during the total disability a weekly compensation
 28 equal to sixty-six and two-thirds percent (66 2/3%) of ~~his~~ **the injured**
 29 **employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~ **section**
 30 **22 of this chapter**, for a period not to exceed five hundred (500)
 31 weeks. **If an employee who has sustained a compensable injury**
 32 **returns to work and suffers a later period of disability due to that**
 33 **injury after June 30, 2003, the average weekly wage for that period**
 34 **of disability shall be determined based on the employee's average**
 35 **weekly wage at the time of the disability subject to the maximum**
 36 **average weekly wage in effect as of the last day worked, computed**
 37 **as set forth in section 22 of this chapter.** Compensation shall be
 38 allowed for the first seven (7) calendar days only if the disability

1 continues for longer than twenty-one (21) days.

2 **(b) Each payment of compensation allowed under subsection (a)**
 3 **is reduced or increased as provided in IC 22-3-2-8.**

4 SECTION 18. IC 22-3-3-9 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) With respect to
 6 injuries occurring prior to April 1, 1951, causing temporary partial
 7 disability for work, compensation shall be paid to the injured employee
 8 during such disability, as prescribed in section 7 of this chapter, a
 9 weekly compensation equal to fifty-five per cent (55%) of the
 10 difference between ~~his~~ **the employee's** average weekly wages and the
 11 weekly wages at which he is actually employed after the injury, for a
 12 period not to exceed three hundred (300) weeks. With respect to
 13 injuries occurring on and after April 1, 1951, and prior to July 1, 1974,
 14 causing temporary partial disability for work, compensation shall be
 15 paid to the injured employee during such disability, as prescribed in
 16 section 7 of this chapter, a weekly compensation equal to sixty per cent
 17 (60%) of the difference between ~~his~~ **the employee's** average weekly
 18 wages and the weekly wages at which he is actually employed after the
 19 injury, for a period not to exceed three hundred (300) weeks. With
 20 respect to injuries occurring on and after July 1, 1974, causing
 21 temporary partial disability for work, compensation shall be paid to the
 22 injured employee during such disability as prescribed in section 7 of
 23 this chapter, a weekly compensation equal to sixty-six and two-thirds
 24 per cent (66 2/3%) of the difference between ~~his~~ **the employee's**
 25 average weekly wages and the weekly wages at which ~~he~~ **the employee**
 26 is actually employed after the injury, for a period not to exceed three
 27 hundred (300) weeks. In case the partial disability begins after the
 28 period of temporary total disability, the latter period shall be included
 29 as a part of the maximum period allowed for partial disability.

30 **(b) Each payment of compensation allowed under subsection (a)**
 31 **is reduced or increased as provided in IC 22-3-2-8.**

32 SECTION 19. IC 22-3-3-10, AS AMENDED BY P.L.31-2000,
 33 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2003]: Sec. 10. (a) With respect to injuries in the following
 35 schedule occurring prior to April 1, 1951, the employee shall receive
 36 in addition to temporary total disability benefits not exceeding
 37 twenty-six (26) weeks on account of the injuries, a weekly
 38 compensation of fifty-five percent (55%) of the employee's average

1 weekly wages. With respect to injuries in the following schedule
2 occurring on and after April 1, 1951, and prior to July 1, 1971, the
3 employee shall receive in addition to temporary total disability benefits
4 not exceeding twenty-six (26) weeks on account of the injuries, a
5 weekly compensation of sixty percent (60%) of the employee's average
6 weekly wages. With respect to injuries in the following schedule
7 occurring on and after July 1, 1971, and before July 1, 1977, the
8 employee shall receive in addition to temporary total disability benefits
9 not exceeding twenty-six (26) weeks on account of the injuries, a
10 weekly compensation of sixty percent (60%) of the employee's average
11 weekly wages not to exceed one hundred dollars (\$100) average weekly
12 wages, for the periods stated for the injuries. With respect to injuries
13 in the following schedule occurring on and after July 1, 1977, and
14 before July 1, 1979, the employee shall receive, in addition to
15 temporary total disability benefits not exceeding twenty-six (26) weeks
16 on account of the injury, a weekly compensation of sixty percent (60%)
17 of ~~his~~ **the employee's** average weekly wages, not to exceed one
18 hundred twenty-five dollars (\$125) average weekly wages, for the
19 period stated for the injury. With respect to injuries in the following
20 schedule occurring on and after July 1, 1979, and before July 1, 1988,
21 the employee shall receive, in addition to temporary total disability
22 benefits not to exceed fifty-two (52) weeks on account of the injury, a
23 weekly compensation of sixty percent (60%) of the employee's average
24 weekly wages, not to exceed one hundred twenty-five dollars (\$125)
25 average weekly wages, for the period stated for the injury. With respect
26 to injuries in the following schedule occurring on and after July 1,
27 1988, and before July 1, 1989, the employee shall receive, in addition
28 to temporary total disability benefits not exceeding seventy-eight (78)
29 weeks on account of the injury, a weekly compensation of sixty percent
30 (60%) of the employee's average weekly wages, not to exceed one
31 hundred sixty-six dollars (\$166) average weekly wages, for the period
32 stated for the injury.

33 With respect to injuries in the following schedule occurring on and
34 after July 1, 1989, and before July 1, 1990, the employee shall receive,
35 in addition to temporary total disability benefits not exceeding
36 seventy-eight (78) weeks on account of the injury, a weekly
37 compensation of sixty percent (60%) of the employee's average weekly
38 wages, not to exceed one hundred eighty-three dollars (\$183) average

1 weekly wages, for the period stated for the injury.

2 With respect to injuries in the following schedule occurring on and
 3 after July 1, 1990, and before July 1, 1991, the employee shall receive,
 4 in addition to temporary total disability benefits not exceeding
 5 seventy-eight (78) weeks on account of the injury, a weekly
 6 compensation of sixty percent (60%) of the employee's average weekly
 7 wages, not to exceed two hundred dollars (\$200) average weekly
 8 wages, for the period stated for the injury.

9 (1) Amputation: For the loss by separation of the thumb, sixty
 10 (60) weeks, of the index finger forty (40) weeks, of the second
 11 finger thirty-five (35) weeks, of the third or ring finger thirty (30)
 12 weeks, of the fourth or little finger twenty (20) weeks, of the hand
 13 by separation below the elbow joint two hundred (200) weeks, or
 14 the arm above the elbow two hundred fifty (250) weeks, of the big
 15 toe sixty (60) weeks, of the second toe thirty (30) weeks, of the
 16 third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks,
 17 of the fifth or little toe ten (10) weeks, and for loss occurring
 18 before April 1, 1959, by separation of the foot below the knee
 19 joint one hundred fifty (150) weeks and of the leg above the knee
 20 joint two hundred (200) weeks; for loss occurring on and after
 21 April 1, 1959, by separation of the foot below the knee joint, one
 22 hundred seventy-five (175) weeks and of the leg above the knee
 23 joint two hundred twenty-five (225) weeks. The loss of more than
 24 one (1) phalange of a thumb or toes shall be considered as the loss
 25 of the entire thumb or toe. The loss of more than two (2)
 26 phalanges of a finger shall be considered as the loss of the entire
 27 finger. The loss of not more than one (1) phalange of a thumb or
 28 toe shall be considered as the loss of one-half (1/2) of the thumb
 29 or toe and compensation shall be paid for one-half (1/2) of the
 30 period for the loss of the entire thumb or toe. The loss of not more
 31 than one (1) phalange of a finger shall be considered as the loss
 32 of one-third (1/3) of the finger and compensation shall be paid for
 33 one-third (1/3) the period for the loss of the entire finger. The loss
 34 of more than one (1) phalange of the finger but not more than two
 35 (2) phalanges of the finger, shall be considered as the loss of
 36 one-half (1/2) of the finger and compensation shall be paid for
 37 one-half (1/2) of the period for the loss of the entire finger.

38 (2) For the loss by separation of both hands or both feet or the

1 total sight of both eyes, or any two (2) such losses in the same
2 accident, five hundred (500) weeks.

3 (3) For the permanent and complete loss of vision by enucleation
4 or its reduction to one-tenth (1/10) of normal vision with glasses,
5 one hundred seventy-five (175) weeks.

6 (4) For the permanent and complete loss of hearing in one (1) ear,
7 seventy-five (75) weeks, and in both ears, two hundred (200)
8 weeks.

9 (5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of
10 both testicles, one hundred fifty (150) weeks.

11 (b) With respect to injuries in the following schedule occurring prior
12 to April 1, 1951, the employee shall receive in lieu of all other
13 compensation on account of the injuries, a weekly compensation of
14 fifty-five percent (55%) of the employee's average weekly wages. With
15 respect to injuries in the following schedule occurring on and after
16 April 1, 1951, and prior to April 1, 1955, the employee shall receive in
17 lieu of all other compensation on account of the injuries a weekly
18 compensation of sixty percent (60%) of the employee's average weekly
19 wages. With respect to injuries in the following schedule occurring on
20 and after April 1, 1955, and prior to July 1, 1971, the employee shall
21 receive in addition to temporary total disability benefits not exceeding
22 twenty-six (26) weeks on account of the injuries, a weekly
23 compensation of sixty percent (60%) of the employee's average weekly
24 wages. With respect to injuries in the following schedule occurring on
25 and after July 1, 1971, and before July 1, 1977, the employee shall
26 receive in addition to temporary total disability benefits not exceeding
27 twenty-six (26) weeks on account of the injuries, a weekly
28 compensation of sixty percent (60%) of the employee's average weekly
29 wages, not to exceed one hundred dollars (\$100) average weekly
30 wages, for the period stated for such injuries respectively. With respect
31 to injuries in the following schedule occurring on and after July 1,
32 1977, and before July 1, 1979, the employee shall receive, in addition
33 to temporary total disability benefits not exceeding twenty-six (26)
34 weeks on account of the injury, a weekly compensation of sixty percent
35 (60%) of the employee's average weekly wages not to exceed one
36 hundred twenty-five dollars (\$125) average weekly wages, for the
37 period stated for the injury. With respect to injuries in the following
38 schedule occurring on and after July 1, 1979, and before July 1, 1988,

the employee shall receive, in addition to temporary total disability benefits not exceeding fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars (\$125) average weekly wages for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the injury.

(1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.

(2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(3) For injuries resulting in total permanent disability, five hundred (500) weeks.

(4) For any permanent reduction of the sight of an eye less than a

1 total loss as specified in subsection (a)(3), compensation shall be
 2 paid for a period proportionate to the degree of such permanent
 3 reduction without correction or glasses. However, when such
 4 permanent reduction without correction or glasses would result in
 5 one hundred percent (100%) loss of vision, but correction or
 6 glasses would result in restoration of vision, then in such event
 7 compensation shall be paid for fifty percent (50%) of such total
 8 loss of vision without glasses, plus an additional amount equal to
 9 the proportionate amount of such reduction with glasses, not to
 10 exceed an additional fifty percent (50%).

11 (5) For any permanent reduction of the hearing of one (1) or both
 12 ears, less than the total loss as specified in subsection (a)(4),
 13 compensation shall be paid for a period proportional to the degree
 14 of such permanent reduction.

15 (6) In all other cases of permanent partial impairment,
 16 compensation proportionate to the degree of such permanent
 17 partial impairment, in the discretion of the worker's compensation
 18 board, not exceeding five hundred (500) weeks.

19 (7) In all cases of permanent disfigurement which may impair the
 20 future usefulness or opportunities of the employee, compensation,
 21 in the discretion of the worker's compensation board, not
 22 exceeding two hundred (200) weeks, except that no compensation
 23 shall be payable under this subdivision where compensation is
 24 payable elsewhere in this section.

25 (c) With respect to injuries in the following schedule occurring on
 26 and after July 1, 1991, the employee shall receive in addition to
 27 temporary total disability benefits, not exceeding one hundred
 28 twenty-five (125) weeks on account of the injury, compensation in an
 29 amount determined under the following schedule to be paid weekly at
 30 a rate of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's
 31 average weekly wages during the fifty-two (52) weeks immediately
 32 preceding the week in which the injury occurred.

33 (1) Amputation: For the loss by separation of the thumb, twelve
 34 (12) degrees of permanent impairment; of the index finger, eight
 35 (8) degrees of permanent impairment; of the second finger, seven
 36 (7) degrees of permanent impairment; of the third or ring finger,
 37 six (6) degrees of permanent impairment; of the fourth or little
 38 finger, four (4) degrees of permanent impairment; of the hand by

1 separation below the elbow joint, forty (40) degrees of permanent
2 impairment; of the arm above the elbow, fifty (50) degrees of
3 permanent impairment; of the big toe, twelve (12) degrees of
4 permanent impairment; of the second toe, six (6) degrees of
5 permanent impairment; of the third toe, four (4) degrees of
6 permanent impairment; of the fourth toe, three (3) degrees of
7 permanent impairment; of the fifth or little toe, two (2) degrees of
8 permanent impairment; by separation of the foot below the knee
9 joint, thirty-five (35) degrees of permanent impairment; and of the
10 leg above the knee joint, forty-five (45) degrees of permanent
11 impairment.

12 (2) Amputations: For the loss by separation of any of the body
13 parts described in subdivision (1) on or after July 1, 1997, and for
14 the loss by separation of any of the body parts described in
15 subdivision (3), (5), or (8), on or after July 1, 1999, the dollar
16 values per degree applying on the date of the injury as described
17 in subsection (d) shall be multiplied by two (2). However, the
18 doubling provision of this subdivision does not apply to a loss of
19 use that is not a loss by separation.

20 (3) The loss of more than one (1) phalange of a thumb or toe shall
21 be considered as the loss of the entire thumb or toe. The loss of
22 more than two (2) phalanges of a finger shall be considered as the
23 loss of the entire finger. The loss of not more than one (1)
24 phalange of a thumb or toe shall be considered as the loss of
25 one-half (1/2) of the degrees of permanent impairment for the loss
26 of the entire thumb or toe. The loss of not more than one (1)
27 phalange of a finger shall be considered as the loss of one-third
28 (1/3) of the finger and compensation shall be paid for one-third
29 (1/3) of the degrees payable for the loss of the entire finger. The
30 loss of more than one (1) phalange of the finger but not more than
31 two (2) phalanges of the finger shall be considered as the loss of
32 one-half (1/2) of the finger and compensation shall be paid for
33 one-half (1/2) of the degrees payable for the loss of the entire
34 finger.

35 (4) For the loss by separation of both hands or both feet or the
36 total sight of both eyes or any two (2) such losses in the same
37 accident, one hundred (100) degrees of permanent impairment.

38 (5) For the permanent and complete loss of vision by enucleation,

- 1 thirty-five (35) degrees of permanent impairment.
- 2 (6) For the reduction of vision to one-tenth (1/10) of normal
3 vision with glasses, thirty-five (35) degrees of permanent
4 impairment.
- 5 (7) For the permanent and complete loss of hearing in one (1) ear,
6 fifteen (15) degrees of permanent impairment, and in both ears,
7 forty (40) degrees of permanent impairment.
- 8 (8) For the loss of one (1) testicle, ten (10) degrees of permanent
9 impairment; for the loss of both testicles, thirty (30) degrees of
10 permanent impairment.
- 11 (9) Loss of use: The total permanent loss of the use of an arm, a
12 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
13 considered as the equivalent of the loss by separation of the arm,
14 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
15 shall be paid in the same amount as for the loss by separation.
16 However, the doubling provision of subdivision (2) does not
17 apply to a loss of use that is not a loss by separation.
- 18 (10) Partial loss of use: For the permanent partial loss of the use
19 of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
20 phalange, compensation shall be paid for the proportionate loss of
21 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.
- 22 (11) For injuries resulting in total permanent disability, the
23 amount payable for impairment or five hundred (500) weeks of
24 compensation, whichever is greater.
- 25 (12) For any permanent reduction of the sight of an eye less than
26 a total loss as specified in subsection (a)(3), the compensation
27 shall be paid in an amount proportionate to the degree of a
28 permanent reduction without correction or glasses. However,
29 when a permanent reduction without correction or glasses would
30 result in one hundred percent (100%) loss of vision, then
31 compensation shall be paid for fifty percent (50%) of the total loss
32 of vision without glasses, plus an additional amount equal to the
33 proportionate amount of the reduction with glasses, not to exceed
34 an additional fifty percent (50%).
- 35 (13) For any permanent reduction of the hearing of one (1) or both
36 ears, less than the total loss as specified in subsection (a)(4),
37 compensation shall be paid in an amount proportionate to the
38 degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(d) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (c) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to

1 thirty-five (35), one thousand dollars (\$1,000) per degree; for
2 each degree of permanent impairment from thirty-six (36) to fifty
3 (50), one thousand four hundred dollars (\$1,400) per degree; for
4 each degree of permanent impairment above fifty (50), one
5 thousand seven hundred dollars (\$1,700) per degree.
6 (4) With respect to injuries occurring on and after July 1, 1997,
7 and before July 1, 1998, for each degree of permanent impairment
8 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
9 degree; for each degree of permanent impairment from eleven
10 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
11 for each degree of permanent impairment from thirty-six (36) to
12 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
13 for each degree of permanent impairment above fifty (50), one
14 thousand seven hundred dollars (\$1,700) per degree.
15 (5) With respect to injuries occurring on and after July 1, 1998,
16 and before July 1, 1999, for each degree of permanent impairment
17 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
18 degree; for each degree of permanent impairment from eleven
19 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
20 for each degree of permanent impairment from thirty-six (36) to
21 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
22 for each degree of permanent impairment above fifty (50), one
23 thousand seven hundred dollars (\$1,700) per degree.
24 (6) With respect to injuries occurring on and after July 1, 1999,
25 and before July 1, 2000, for each degree of permanent impairment
26 from one (1) to ten (10), nine hundred dollars (\$900) per degree;
27 for each degree of permanent impairment from eleven (11) to
28 thirty-five (35), one thousand one hundred dollars (\$1,100) per
29 degree; for each degree of permanent impairment from thirty-six
30 (36) to fifty (50), one thousand six hundred dollars (\$1,600) per
31 degree; for each degree of permanent impairment above fifty (50),
32 two thousand dollars (\$2,000) per degree.
33 (7) With respect to injuries occurring on and after July 1, 2000,
34 and before July 1, 2001, for each degree of permanent impairment
35 from one (1) to ten (10), one thousand one hundred dollars
36 (\$1,100) per degree; for each degree of permanent impairment
37 from eleven (11) to thirty-five (35), one thousand three hundred
38 dollars (\$1,300) per degree; for each degree of permanent

1 impairment from thirty-six (36) to fifty (50), two thousand dollars
 2 (\$2,000) per degree; for each degree of permanent impairment
 3 above fifty (50), two thousand five hundred fifty dollars (\$2,500)
 4 per degree.

5 (8) With respect to injuries occurring on and after July 1, 2001,
 6 **and before July 1, 2003**, for each degree of permanent
 7 impairment from one (1) to ten (10), one thousand three hundred
 8 dollars (\$1,300) per degree; for each degree of permanent
 9 impairment from eleven (11) to thirty-five (35), one thousand five
 10 hundred dollars (\$1,500) per degree; for each degree of
 11 permanent impairment from thirty-six (36) to fifty (50), two
 12 thousand four hundred dollars (\$2,400) per degree; for each
 13 degree of permanent impairment above fifty (50), three thousand
 14 dollars (\$3,000) per degree.

15 (9) With respect to injuries occurring on and after July 1,
 16 **2003, and before July 1, 2004**, for each degree of permanent
 17 **impairment from one (1) to ten (10), two thousand fifty-six**
 18 **dollars (\$2,056) per degree; for each degree of permanent**
 19 **impairment from eleven (11) to thirty-five (35), two thousand**
 20 **seven hundred six dollars (\$2,706) per degree; for each degree**
 21 **of permanent impairment from thirty-six (36) to fifty (50),**
 22 **three thousand three hundred six dollars (\$3,306) per degree;**
 23 **for each degree of permanent impairment above fifty (50),**
 24 **three thousand nine hundred six dollars (\$3,906) per degree.**

25 (10) With respect to injuries occurring on and after July 1,
 26 **2004**, for each degree of permanent impairment from one (1)
 27 to ten (10), two thousand four hundred six dollars (\$2,406) per
 28 degree; for each degree of permanent impairment from eleven
 29 (11) to thirty-five (35), three thousand eighty-one dollars
 30 (\$3,081) per degree; for each degree of permanent
 31 impairment from thirty-six (36) to fifty (50), three thousand
 32 seven hundred eighty-one dollars (\$3,781) per degree; for
 33 each degree of permanent impairment above fifty (50), four
 34 thousand five hundred thirty-one dollars (\$4,531) per degree.

35 (e) The average weekly wages used in the determination of
 36 compensation for permanent partial impairment under subsections (c)
 37 and (d) shall not exceed the following:

38 (1) With respect to injuries occurring on or after July 1, 1991, and

1 before July 1, 1992, four hundred ninety-two dollars (\$492).

2 (2) With respect to injuries occurring on or after July 1, 1992, and
3 before July 1, 1993, five hundred forty dollars (\$540).

4 (3) With respect to injuries occurring on or after July 1, 1993, and
5 before July 1, 1994, five hundred ninety-one dollars (\$591).

6 (4) With respect to injuries occurring on or after July 1, 1994, and
7 before July 1, 1997, six hundred forty-two dollars (\$642).

8 (5) With respect to injuries occurring on or after July 1, 1997, and
9 before July 1, 1998, six hundred seventy-two dollars (\$672).

10 (6) With respect to injuries occurring on or after July 1, 1998, and
11 before July 1, 1999, seven hundred two dollars (\$702).

12 (7) With respect to injuries occurring on or after July 1, 1999, and
13 before July 1, 2000, seven hundred thirty-two dollars (\$732).

14 (8) With respect to injuries occurring on or after July 1, 2000, and
15 before July 1, 2001, seven hundred sixty-two dollars (\$762).

16 (9) With respect to injuries occurring on or after July 1, 2001, and
17 before July 1, 2002, eight hundred twenty-two dollars (\$822).

18 (10) With respect to injuries occurring on or after July 1, 2002,
19 **and before July 1, 2003**, eight hundred eighty-two dollars
20 (\$882).

21 **(11) With respect to injuries occurring on or after July 1,**
22 **2003, and before July 1, 2004, nine hundred forty-eight**
23 **dollars (\$948).**

24 **(12) With respect to injuries occurring on or after July 1,**
25 **2004, one thousand fourteen dollars (\$1,014).**

26 **(f) With respect to injuries occurring on or after July 1, 2003,**
27 **each payment of compensation allowed under this section is**
28 **reduced or increased as provided in IC 22-3-2-8.**

29 SECTION 20. IC 22-3-3-13, AS AMENDED BY P.L.202-2001,
30 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2003]: Sec. 13. (a) As used in this section, "board" refers to
32 the worker's compensation board created under IC 22-3-1-1.

33 (b) If an employee who from any cause, had lost, or lost the use of,
34 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and
35 in a subsequent industrial accident becomes permanently and totally
36 disabled by reason of the loss, or loss of use of, another such member
37 or eye, the employer shall be liable only for the compensation payable
38 for such second injury. However, in addition to such compensation and

after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed ~~two~~ **three** and one-half percent ~~(2.5%)~~ **(3.5%)** of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. ~~If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars (\$1,000,000), the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars (\$1,000,000);~~

1 the payments of not more than two and one-half percent (2.5%) of the
 2 total amount of all worker's compensation paid to injured employees or
 3 their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar
 4 year next preceding that date shall be resumed and paid into the fund.
 5 The board may not use an assessment rate greater than twenty-five
 6 hundredths of one percent (0.25%) above the amount recommended by
 7 the study performed before the assessment.

8 (d) The board shall enter into a contract with an actuary or another
 9 qualified firm that has experience in calculating worker's compensation
 10 liabilities. Not later than September 1 of each year, the actuary or other
 11 qualified firm shall calculate the recommended funding level of the
 12 fund based on the previous year's claims and inform the board of the
 13 results of the calculation. If the amount to the credit of the fund is less
 14 than the amount required under subsection (c), the board may conduct
 15 an assessment under subsection (c). The board shall pay the costs of the
 16 contract under this subsection with money in the fund.

17 (e) An assessment collected under subsection (c) on an employer
 18 who is not self-insured must be assessed through a surcharge based on
 19 the employer's premium. An assessment collected under subsection (c)
 20 does not constitute an element of loss, but for the purpose of collection
 21 shall be treated as a separate cost imposed upon insured employers. A
 22 premium surcharge under this subsection must be collected at the same
 23 time and in the same manner in which the premium for coverage is
 24 collected, and must be shown as a separate amount on a premium
 25 statement. A premium surcharge under this subsection must be
 26 excluded from the definition of premium for all purposes, including the
 27 computation of agent commissions or premium taxes. However, an
 28 insurer may cancel a worker's compensation policy for nonpayment of
 29 the premium surcharge. A cancellation under this subsection must be
 30 carried out under the statutes applicable to the nonpayment of
 31 premiums.

32 (f) The sums shall be paid by the board to the treasurer of state, to
 33 be deposited in a special account known as the second injury fund. The
 34 funds are not a part of the general fund of the state. Any balance
 35 remaining in the account at the end of any fiscal year shall not revert
 36 to the general fund. The funds shall be used only for the payment of
 37 awards of compensation and expense of medical examinations or
 38 treatment made and as ordered by the board and chargeable against the

fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (h).

(h) An employee who has exhausted the employee's maximum ~~benefits~~ **compensation** under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;
the name, address, and electronic mail address of a representative
authorized to receive the notice of an assessment.

(k) Each:

**(1) insurance carrier or other entity insuring or providing
coverage to an employer that is or may be liable to pay
compensation for personal injuries to or for death of the
employer's employees under this article; and**

**(2) employer carrying the employer's own risk;
that does not comply with this section is subject to a fine of two
hundred fifty dollars (\$250) that shall be paid into the second
injury fund created under subsection (b).**

**(l) In addition to assessing the fine provided under subsection
(k), the board shall refer an insurance carrier that does not comply
with this section to the department of insurance for administrative
action for committing an unfair or a deceptive act and practice
under IC 27-4-1.**

SECTION 21. IC 22-3-3-22, AS AMENDED BY P.L.31-2000,
SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2003]: Sec. 22. (a) In computing the compensation under this
law with respect to injuries occurring on and after April 1, 1963, and
prior to April 1, 1965, the average weekly wages shall be considered
to be not more than seventy dollars (\$70) nor less than thirty dollars
(\$30). In computing the compensation under this law with respect to
injuries occurring on and after April 1, 1965, and prior to April 1,
1967, the average weekly wages shall be considered to be not more
than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In
computing the compensation under this law with respect to injuries
occurring on and after April 1, 1967, and prior to April 1, 1969, the
average weekly wages shall be considered to be not more than
eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In
computing the compensation under this law with respect to injuries
occurring on and after April 1, 1969, and prior to July 1, 1971, the
average weekly wages shall be considered to be not more than
ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In
computing the compensation under this law with respect to injuries
occurring on and after July 1, 1971, and prior to July 1, 1974, the
average weekly wages shall be considered to be: (A) Not more than: (1)

1 one hundred dollars (\$100) if no dependents; (2) one hundred five
2 dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110)
3 if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three
4 (3) dependents; (5) one hundred twenty dollars (\$120) if four (4)
5 dependents; and (6) one hundred twenty-five dollars (\$125) if five (5)
6 or more dependents; and (B) Not less than thirty-five dollars (\$35). In
7 computing compensation for temporary total disability, temporary
8 partial disability, and total permanent disability under this law with
9 respect to injuries occurring on and after July 1, 1974, and before July
10 1, 1976, the average weekly wages shall be considered to be (A) not
11 more than one hundred thirty-five dollars (\$135), and (B) not less than
12 seventy-five dollars (\$75). However, the weekly compensation payable
13 shall in no case exceed the average weekly wages of the employee at
14 the time of the injury. In computing compensation for temporary total
15 disability, temporary partial disability and total permanent disability
16 under this law with respect to injuries occurring on and after July 1,
17 1976, and before July 1, 1977, the average weekly wages shall be
18 considered to be (1) not more than one hundred fifty-six dollars (\$156)
19 and (2) not less than seventy-five dollars (\$75). However, the weekly
20 compensation payable shall not exceed the average weekly wages of
21 the employee at the time of the injury. In computing compensation for
22 temporary total disability, temporary partial disability, and total
23 permanent disability, with respect to injuries occurring on and after
24 July 1, 1977, and before July 1, 1979, the average weekly wages are
25 considered to be (1) not more than one hundred eighty dollars (\$180);
26 and (2) not less than seventy-five dollars (\$75). However, the weekly
27 compensation payable may not exceed the average weekly wages of the
28 employee at the time of the injury. In computing compensation for
29 temporary total disability, temporary partial disability, and total
30 permanent disability, with respect to injuries occurring on and after
31 July 1, 1979, and before July 1, 1980, the average weekly wages are
32 considered to be (1) not more than one hundred ninety-five dollars
33 (\$195), and (2) not less than seventy-five dollars (\$75). However, the
34 weekly compensation payable shall not exceed the average weekly
35 wages of the employee at the time of the injury. In computing
36 compensation for temporary total disability, temporary partial
37 disability, and total permanent disability, with respect to injuries
38 occurring on and after July 1, 1980, and before July 1, 1983, the

1 average weekly wages are considered to be (1) not more than two
2 hundred ten dollars (\$210), and (2) not less than seventy-five dollars
3 (\$75). However, the weekly compensation payable shall not exceed the
4 average weekly wages of the employee at the time of the injury. In
5 computing compensation for temporary total disability, temporary
6 partial disability, and total permanent disability, with respect to injuries
7 occurring on and after July 1, 1983, and before July 1, 1984, the
8 average weekly wages are considered to be (1) not more than two
9 hundred thirty-four dollars (\$234) and (2) not less than seventy-five
10 dollars (\$75). However, the weekly compensation payable shall not
11 exceed the average weekly wages of the employee at the time of the
12 injury. In computing compensation for temporary total disability,
13 temporary partial disability, and total permanent disability, with respect
14 to injuries occurring on and after July 1, 1984, and before July 1, 1985,
15 the average weekly wages are considered to be (1) not more than two
16 hundred forty-nine dollars (\$249) and (2) not less than seventy-five
17 dollars (\$75). However, the weekly compensation payable shall not
18 exceed the average weekly wages of the employee at the time of the
19 injury. In computing compensation for temporary total disability,
20 temporary partial disability, and total permanent disability, with respect
21 to injuries occurring on and after July 1, 1985, and before July 1, 1986,
22 the average weekly wages are considered to be (1) not more than two
23 hundred sixty-seven dollars (\$267) and (2) not less than seventy-five
24 dollars (\$75). However, the weekly compensation payable shall not
25 exceed the average weekly wages of the employee at the time of the
26 injury. In computing compensation for temporary total disability,
27 temporary partial disability, and total permanent disability, with respect
28 to injuries occurring on and after July 1, 1986, and before July 1, 1988,
29 the average weekly wages are considered to be (1) not more than two
30 hundred eighty-five dollars (\$285) and (2) not less than seventy-five
31 dollars (\$75). However, the weekly compensation payable shall not
32 exceed the average weekly wages of the employee at the time of the
33 injury. In computing compensation for temporary total disability,
34 temporary partial disability, and total permanent disability, with respect
35 to injuries occurring on and after July 1, 1988, and before July 1, 1989,
36 the average weekly wages are considered to be (1) not more than three
37 hundred eighty-four dollars (\$384) and (2) not less than seventy-five
38 dollars (\$75). However, the weekly compensation payable shall not

1 exceed the average weekly wages of the employee at the time of the
2 injury.

3 In computing compensation for temporary total disability, temporary
4 partial disability, and total permanent disability, with respect to injuries
5 occurring on and after July 1, 1989, and before July 1, 1990, the
6 average weekly wages are considered to be (1) not more than four
7 hundred eleven dollars (\$411) and (2) not less than seventy-five dollars
8 (\$75). However, the weekly compensation payable shall not exceed the
9 average weekly wages of the employee at the time of the injury.

10 In computing compensation for temporary total disability, temporary
11 partial disability, and total permanent disability, with respect to injuries
12 occurring on and after July 1, 1990, and before July 1, 1991, the
13 average weekly wages are considered to be (1) not more than four
14 hundred forty-one dollars (\$441) and (2) not less than seventy-five
15 dollars (\$75). However, the weekly compensation payable shall not
16 exceed the average weekly wages of the employee at the time of the
17 injury.

18 In computing compensation for temporary total disability, temporary
19 partial disability, and total permanent disability, with respect to injuries
20 occurring on and after July 1, 1991, and before July 1, 1992, the
21 average weekly wages are considered to be (1) not more than four
22 hundred ninety-two dollars (\$492) and (2) not less than seventy-five
23 dollars (\$75). However, the weekly compensation payable shall not
24 exceed the average weekly wages of the employee at the time of the
25 injury.

26 In computing compensation for temporary total disability, temporary
27 partial disability, and total permanent disability, with respect to injuries
28 occurring on and after July 1, 1992, and before July 1, 1993, the
29 average weekly wages are considered to be (1) not more than five
30 hundred forty dollars (\$540) and (2) not less than seventy-five dollars
31 (\$75). However, the weekly compensation payable shall not exceed the
32 average weekly wages of the employee at the time of the injury.

33 In computing compensation for temporary total disability, temporary
34 partial disability, and total permanent disability, with respect to injuries
35 occurring on and after July 1, 1993, and before July 1, 1994, the
36 average weekly wages are considered to be (1) not more than five
37 hundred ninety-one dollars (\$591) and (2) not less than seventy-five
38 dollars (\$75). However, the weekly compensation payable shall not

1 exceed the average weekly wages of the employee at the time of the
2 injury.

3 In computing compensation for temporary total disability, temporary
4 partial disability, and total permanent disability, with respect to injuries
5 occurring on and after July 1, 1994, and before July 1, 1997, the
6 average weekly wages are considered to be (1) not more than six
7 hundred forty-two dollars (\$642) and (2) not less than seventy-five
8 dollars (\$75). However, the weekly compensation payable shall not
9 exceed the average weekly wages of the employee at the time of the
10 injury.

11 (b) In computing compensation for temporary total disability,
12 temporary partial disability, and total permanent disability, the average
13 weekly wages are considered to be:

14 (1) with respect to injuries occurring on and after July 1, 1997,
15 and before July 1, 1998:

16 (A) not more than six hundred seventy-two dollars (\$672); and

17 (B) not less than seventy-five dollars (\$75);

18 (2) with respect to injuries occurring on and after July 1, 1998,
19 and before July 1, 1999:

20 (A) not more than seven hundred two dollars (\$702); and

21 (B) not less than seventy-five dollars (\$75);

22 (3) with respect to injuries occurring on and after July 1, 1999,
23 and before July 1, 2000:

24 (A) not more than seven hundred thirty-two dollars (\$732);

25 and

26 (B) not less than seventy-five dollars (\$75);

27 (4) with respect to injuries occurring on and after July 1, 2000,
28 and before July 1, 2001:

29 (A) not more than seven hundred sixty-two dollars (\$762); and

30 (B) not less than seventy-five dollars (\$75);

31 (5) with respect to injuries occurring on and after July 1, 2001,
32 and before July 1, 2002:

33 (A) not more than eight hundred twenty-two dollars (\$822);

34 and

35 (B) not less than seventy-five dollars (\$75); ~~and~~

36 (6) with respect to injuries occurring on and after July 1, 2002,
37 **and before July 1, 2003:**

38 (A) not more than eight hundred eighty-two dollars (\$882);

- 1 and
 2 (B) not less than seventy-five dollars (\$75);
 3 **(7) with respect to injuries occurring on and after July 1,**
 4 **2003, and before July 1, 2004:**
 5 **(A) not more than nine hundred forty-eight dollars (\$948);**
 6 **and**
 7 **(B) not less than two hundred six dollars (\$206); and**
 8 **(8) with respect to injuries occurring on and after July 1,**
 9 **2004:**
 10 **(A) not more than one thousand fourteen dollars (\$1,014);**
 11 **and**
 12 **(B) not less than two hundred six dollars (\$206).**

13 However, the weekly compensation payable shall not exceed the
 14 average weekly wages of the employee at the time of the injury.

15 (c) For the purpose of this section only and with respect to injuries
 16 occurring on and after July 1, 1971, and prior to July 1, 1974, only, the
 17 term "dependent" as used in this section shall mean persons defined as
 18 presumptive dependents under section 19 of this chapter, except that
 19 such dependency shall be determined as of the date of the injury to the
 20 employee.

21 (d) With respect to any injury occurring on and after April 1, 1955,
 22 and prior to April 1, 1957, the maximum compensation exclusive of
 23 medical benefits, which shall be paid for an injury under any provisions
 24 of this law or under any combination of its provisions shall not exceed
 25 twelve thousand five hundred dollars (\$12,500) in any case. With
 26 respect to any injury occurring on and after April 1, 1957 and prior to
 27 April 1, 1963, the maximum compensation exclusive of medical
 28 benefits, which shall be paid for an injury under any provision of this
 29 law or under any combination of its provisions shall not exceed fifteen
 30 thousand dollars (\$15,000) in any case. With respect to any injury
 31 occurring on and after April 1, 1963, and prior to April 1, 1965, the
 32 maximum compensation exclusive of medical benefits, which shall be
 33 paid for an injury under any provision of this law or under any
 34 combination of its provisions shall not exceed sixteen thousand five
 35 hundred dollars (\$16,500) in any case. With respect to any injury
 36 occurring on and after April 1, 1965, and prior to April 1, 1967, the
 37 maximum compensation exclusive of medical benefits which shall be
 38 paid for any injury under any provision of this law or any combination

1 of provisions shall not exceed twenty thousand dollars (\$20,000) in any
2 case. With respect to any injury occurring on and after April 1, 1967,
3 and prior to July 1, 1971, the maximum compensation exclusive of
4 medical benefits which shall be paid for an injury under any provision
5 of this law or any combination of provisions shall not exceed
6 twenty-five thousand dollars (\$25,000) in any case. With respect to any
7 injury occurring on and after July 1, 1971, and prior to July 1, 1974, the
8 maximum compensation exclusive of medical benefits which shall be
9 paid for any injury under any provision of this law or any combination
10 of provisions shall not exceed thirty thousand dollars (\$30,000) in any
11 case. With respect to any injury occurring on and after July 1, 1974,
12 and before July 1, 1976, the maximum compensation exclusive of
13 medical benefits which shall be paid for an injury under any provision
14 of this law or any combination of provisions shall not exceed forty-five
15 thousand dollars (\$45,000) in any case. With respect to an injury
16 occurring on and after July 1, 1976, and before July 1, 1977, the
17 maximum compensation, exclusive of medical benefits, which shall be
18 paid for any injury under any provision of this law or any combination
19 of provisions shall not exceed fifty-two thousand dollars (\$52,000) in
20 any case. With respect to any injury occurring on and after July 1,
21 1977, and before July 1, 1979, the maximum compensation, exclusive
22 of medical benefits, which may be paid for an injury under any
23 provision of this law or any combination of provisions may not exceed
24 sixty thousand dollars (\$60,000) in any case. With respect to any injury
25 occurring on and after July 1, 1979, and before July 1, 1980, the
26 maximum compensation, exclusive of medical benefits, which may be
27 paid for an injury under any provisions of this law or any combination
28 of provisions may not exceed sixty-five thousand dollars (\$65,000) in
29 any case. With respect to any injury occurring on and after July 1,
30 1980, and before July 1, 1983, the maximum compensation, exclusive
31 of medical benefits, which may be paid for an injury under any
32 provisions of this law or any combination of provisions may not exceed
33 seventy thousand dollars (\$70,000) in any case. With respect to any
34 injury occurring on and after July 1, 1983, and before July 1, 1984, the
35 maximum compensation, exclusive of medical benefits, which may be
36 paid for an injury under any provisions of this law or any combination
37 of provisions may not exceed seventy-eight thousand dollars (\$78,000)
38 in any case. With respect to any injury occurring on and after July 1,

1 1984, and before July 1, 1985, the maximum compensation, exclusive
2 of medical benefits, which may be paid for an injury under any
3 provisions of this law or any combination of provisions may not exceed
4 eighty-three thousand dollars (\$83,000) in any case. With respect to
5 any injury occurring on and after July 1, 1985, and before July 1, 1986,
6 the maximum compensation, exclusive of medical benefits, which may
7 be paid for an injury under any provisions of this law or any
8 combination of provisions may not exceed eighty-nine thousand dollars
9 (\$89,000) in any case. With respect to any injury occurring on and after
10 July 1, 1986, and before July 1, 1988, the maximum compensation,
11 exclusive of medical benefits, which may be paid for an injury under
12 any provisions of this law or any combination of provisions may not
13 exceed ninety-five thousand dollars (\$95,000) in any case. With respect
14 to any injury occurring on and after July 1, 1988, and before July 1,
15 1989, the maximum compensation, exclusive of medical benefits,
16 which may be paid for an injury under any provisions of this law or any
17 combination of provisions may not exceed one hundred twenty-eight
18 thousand dollars (\$128,000) in any case.

19 With respect to any injury occurring on and after July 1, 1989, and
20 before July 1, 1990, the maximum compensation, exclusive of medical
21 benefits, which may be paid for an injury under any provisions of this
22 law or any combination of provisions may not exceed one hundred
23 thirty-seven thousand dollars (\$137,000) in any case.

24 With respect to any injury occurring on and after July 1, 1990, and
25 before July 1, 1991, the maximum compensation, exclusive of medical
26 benefits, which may be paid for an injury under any provisions of this
27 law or any combination of provisions may not exceed one hundred
28 forty-seven thousand dollars (\$147,000) in any case.

29 With respect to any injury occurring on and after July 1, 1991, and
30 before July 1, 1992, the maximum compensation, exclusive of medical
31 benefits, that may be paid for an injury under any provisions of this law
32 or any combination of provisions may not exceed one hundred
33 sixty-four thousand dollars (\$164,000) in any case.

34 With respect to any injury occurring on and after July 1, 1992, and
35 before July 1, 1993, the maximum compensation, exclusive of medical
36 benefits, that may be paid for an injury under any provisions of this law
37 or any combination of provisions may not exceed one hundred eighty
38 thousand dollars (\$180,000) in any case.

1 With respect to any injury occurring on and after July 1, 1993, and
 2 before July 1, 1994, the maximum compensation, exclusive of medical
 3 benefits, that may be paid for an injury under any provisions of this law
 4 or any combination of provisions may not exceed one hundred
 5 ninety-seven thousand dollars (\$197,000) in any case.

6 With respect to any injury occurring on and after July 1, 1994, and
 7 before July 1, 1997, the maximum compensation, exclusive of medical
 8 benefits, which may be paid for an injury under any provisions of this
 9 law or any combination of provisions may not exceed two hundred
 10 fourteen thousand dollars (\$214,000) in any case.

11 (e) **Subject to IC 22-3-2-8**, the maximum compensation, exclusive
 12 of medical benefits, that may be paid for an injury under any provision
 13 of this law or any combination of provisions may not exceed the
 14 following amounts in any case:

15 (1) With respect to an injury occurring on and after July 1, 1997,
 16 and before July 1, 1998, two hundred twenty-four thousand
 17 dollars (\$224,000).

18 (2) With respect to an injury occurring on and after July 1, 1998,
 19 and before July 1, 1999, two hundred thirty-four thousand dollars
 20 (\$234,000).

21 (3) With respect to an injury occurring on and after July 1, 1999,
 22 and before July 1, 2000, two hundred forty-four thousand dollars
 23 (\$244,000).

24 (4) With respect to an injury occurring on and after July 1, 2000,
 25 and before July 1, 2001, two hundred fifty-four thousand dollars
 26 (\$254,000).

27 (5) With respect to an injury occurring on and after July 1, 2001,
 28 and before July 1, 2002, two hundred seventy-four thousand
 29 dollars (\$274,000).

30 (6) With respect to an injury occurring on and after July 1, 2002,
 31 **and before July 1, 2003**, two hundred ninety-four thousand
 32 dollars (\$294,000).

33 **(7) With respect to an injury occurring on or after July 1,**
 34 **2003, the total of one hundred twenty-five (125) weeks of**
 35 **temporary total disability compensation as set forth in section**
 36 **8 of this chapter, plus one hundred (100) degrees of**
 37 **permanent partial impairment as set forth in section 10 of this**
 38 **chapter.**

SECTION 22. IC 22-3-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The power and jurisdiction of the worker's compensation board over each case shall be continuing and from time to time it may, upon its own motion or upon the application of either party, on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

(b) Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder.

(c) The board shall not **have jurisdiction to** make any ~~such~~ modification upon its own motion ~~nor shall or upon~~ any application ~~therefor be~~ filed by either party after the expiration of two (2) years from the ~~last day for which compensation was paid under the original~~ **date of the most recent** award made either by agreement or upon hearing, ~~except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid.~~ The board may at any time correct any clerical error in any finding or award.

SECTION 23. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 33. (a) **If an employee:**

(1) **receives an injury that results in a temporary total disability or a temporary partial disability;**

(2) **is capable of performing work with permanent limitations or restrictions that prevent the employee from returning to the position the employee held before the employee's injury; and**

(3) **is enrolled in a training program approved by:**

(A) **the incumbent workers training board established by IC 22-4-18.3-2; or**

(B) **the unemployment insurance board created by IC 22-4-18-2;**

the employee may receive disabled from trade compensation.

(b) **An employee may receive disabled from trade compensation**

1 **for a period not to exceed:**

2 **(1) fifty-two (52) consecutive weeks; or**

3 **(2) seventy-eight (78) total weeks.**

4 **(c) An employee is entitled to receive disabled from trade**
 5 **compensation in a weekly amount equal to the difference between**
 6 **the employee's average weekly wage from employment at the time**
 7 **of the injury and the employee's average weekly wage from**
 8 **employment after the injury with the permanent restrictions or**
 9 **limitations resulting from the injury.**

10 **(d) The amount of disabled from trade compensation may not**
 11 **exceed the maximum average weekly wage amounts set forth in**
 12 **section 22 of this chapter.**

13 **(e) Not later than sixty (60) days after the employee's release to**
 14 **return to work with restrictions or limitations, the employee must**
 15 **receive notice from the employer on a form provided by the board**
 16 **that informs the employee that the employee has been released to**
 17 **work with limitations or restrictions. The notice must include:**

18 **(1) an explanation of the limitations or restrictions placed on**
 19 **the employee;**

20 **(2) the amount of disabled from trade compensation the**
 21 **employee has been awarded; and**

22 **(3) information for the employee regarding the terms of this**
 23 **section.**

24 **(f) Disabled from trade compensation is in addition to any other**
 25 **compensation awarded to an employee as a result of a temporary**
 26 **total disability or a permanent partial impairment.**

27 **(g) An employer may unilaterally convert an award of**
 28 **compensation for a temporary total disability or a temporary**
 29 **partial disability into disabled from trade compensation by filing**
 30 **a copy of the notice required under subsection (e) with the board.**

31 **SECTION 24. IC 22-3-4-2 IS AMENDED TO READ AS**
 32 **FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The worker's**
 33 **compensation board may make rules not inconsistent with IC 22-3-2**
 34 **through IC 22-3-6 for carrying out the provisions of IC 22-3-2 through**
 35 **IC 22-3-6. Processes and procedures under IC 22-3-2 through**
 36 **IC 22-3-6 shall be as summary and simple as reasonably may be. The**
 37 **board or any member of the board shall have the power for the purpose**
 38 **of IC 22-3-2 through IC 22-3-6 to subpoena witnesses, administer or**

1 cause to have administered oaths, and to examine or cause to have
 2 examined such parts of the books and records of the parties to a
 3 proceeding as relate to questions in dispute.

4 (b) The county sheriff shall serve all subpoenas of the board **and**
 5 **magistrates appointed under IC 22-3-1-1** and shall receive the same
 6 fees as provided by law for like service in civil actions. Each witness
 7 who appears in obedience to such subpoenas of the board shall receive
 8 for attendance the fees and mileage for witnesses in civil cases in the
 9 courts.

10 (c) The circuit or superior court shall, on application of the board or
 11 any member of the board, enforce by proper proceedings the attendance
 12 and testimony of witnesses and the production and examination of
 13 books, papers, and records.

14 SECTION 25. IC 22-3-4-5 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the employer
 16 and the injured employee or the injured employee's dependents
 17 disagree in regard to the compensation payable under IC 22-3-2
 18 through IC 22-3-6 or, if they have reached such an agreement, which
 19 has been signed by them, filed with and approved by the worker's
 20 compensation board, and afterward disagree as to the continuance of
 21 payments under such agreement, or as to the period for which payments
 22 shall be made, or to the amount to be paid, because of a change in
 23 conditions since the making of such agreement, either party may then
 24 make an application to the board for the determination of the matters
 25 in dispute.

26 (b) Upon the filing of such application, the board shall set the date
 27 of hearing, which shall be as early as practicable, and shall notify the
 28 employee, employer, and attorneys of record in the manner prescribed
 29 by the board of the time and place of all hearings and requests for
 30 continuances. The hearing of all claims for compensation, on account
 31 of injuries occurring within the state, shall be held in the county in
 32 which the injury occurred, **or** in any adjoining county, except when the
 33 parties consent to a hearing elsewhere. Claims assigned to an
 34 individual board member that are considered to be of an emergency
 35 nature by that board member, may be heard in any county within the
 36 board member's jurisdiction.

37 (c) All disputes arising under IC 22-3-2 through IC 22-3-6, if not
 38 settled by the agreement of the parties interested therein, with the

1 approval of the board, shall be determined by the board.

2 SECTION 26. IC 22-3-4-6 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The board by any or
4 all of its members **or magistrates appointed under IC 22-3-1-1** shall
5 hear the parties at issue, their representatives and witnesses, and shall
6 determine the dispute in a summary manner. The award shall be filed
7 with the record of proceedings, and a copy thereof shall immediately
8 be sent to each of the employee, employer, and attorney of record in the
9 dispute.

10 SECTION 27. IC 22-3-4-10 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. In all proceedings
12 before the worker's compensation board or in a court under IC 22-3-2
13 through IC 22-3-6, the costs shall be awarded and taxed as provided by
14 law in ordinary civil actions in the circuit court. **Prejudgment interest**
15 **shall be awarded at a rate of ten percent (10%) per year, accruing**
16 **from the date of filing of the application of adjustment of claim as**
17 **determined under section 5(a) of this chapter.**

18 SECTION 28. IC 22-3-6-1, AS AMENDED BY P.L.202-2001,
19 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2003]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the
21 context otherwise requires:

22 (a) "Employer" includes the state and any political subdivision, any
23 municipal corporation within the state, any individual or the legal
24 representative of a deceased individual, firm, association, limited
25 liability company, or corporation or the receiver or trustee of the same,
26 using the services of another for pay. A parent corporation and its
27 subsidiaries shall each be considered joint employers of the
28 corporation's, the parent's, or the subsidiaries' employees for purposes
29 of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of
30 employees shall each be considered joint employers of the employees
31 provided by the lessor to the lessee for purposes of IC 22-3-2-6 and
32 IC 22-3-3-31. If the employer is insured, the term includes the
33 employer's insurer so far as applicable. However, the inclusion of an
34 employer's insurer within this definition does not allow an employer's
35 insurer to avoid payment for services rendered to an employee with the
36 approval of the employer. The term also includes an employer that
37 provides on-the-job training under the federal School to Work
38 Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in

1 IC 22-3-2-2.5.

2 (b) "Employee" means every person, including a minor, in the
3 service of another, under any contract of hire or apprenticeship, written
4 or implied, except one whose employment is both casual and not in the
5 usual course of the trade, business, occupation, or profession of the
6 employer.

7 (1) An executive officer elected or appointed and empowered in
8 accordance with the charter and bylaws of a corporation, other
9 than a municipal corporation or governmental subdivision or a
10 charitable, religious, educational, or other nonprofit corporation,
11 is an employee of the corporation under IC 22-3-2 through
12 IC 22-3-6.

13 (2) An executive officer of a municipal corporation or other
14 governmental subdivision or of a charitable, religious,
15 educational, or other nonprofit corporation may, notwithstanding
16 any other provision of IC 22-3-2 through IC 22-3-6, be brought
17 within the coverage of its insurance contract by the corporation by
18 specifically including the executive officer in the contract of
19 insurance. The election to bring the executive officer within the
20 coverage shall continue for the period the contract of insurance is
21 in effect, and during this period, the executive officers thus
22 brought within the coverage of the insurance contract are
23 employees of the corporation under IC 22-3-2 through IC 22-3-6.

24 (3) Any reference to an employee who has been injured, when the
25 employee is dead, also includes the employee's legal
26 representatives, dependents, and other
27 persons to whom compensation may be payable.

28 (4) An owner of a sole proprietorship may elect to include the
29 owner as an employee under IC 22-3-2 through IC 22-3-6 if the
30 owner is actually engaged in the proprietorship business. If the
31 owner makes this election, the owner must serve upon the owner's
32 insurance carrier and upon the board written notice of the
33 election. No owner of a sole proprietorship may be considered an
34 employee under IC 22-3-2 through IC 22-3-6 until the notice has
35 been received. If the owner of a sole proprietorship is an
36 independent contractor in the construction trades and does not
37 make the election provided under this subdivision, the owner
38 must obtain an affidavit of exemption under IC 22-3-2-14.5.

1 (5) A partner in a partnership may elect to include the partner as
2 an employee under IC 22-3-2 through IC 22-3-6 if the partner is
3 actually engaged in the partnership business. If a partner makes
4 this election, the partner must serve upon the partner's insurance
5 carrier and upon the board written notice of the election. No
6 partner may be considered an employee under IC 22-3-2 through
7 IC 22-3-6 until the notice has been received. If a partner in a
8 partnership is an independent contractor in the construction trades
9 and does not make the election provided under this subdivision,
10 the partner must obtain an affidavit of exemption under
11 IC 22-3-2-14.5.

12 (6) Real estate professionals are not employees under IC 22-3-2
13 through IC 22-3-6 if:

- 14 (A) they are licensed real estate agents;
15 (B) substantially all their remuneration is directly related to
16 sales volume and not the number of hours worked; and
17 (C) they have written agreements with real estate brokers
18 stating that they are not to be treated as employees for tax
19 purposes.

20 (7) A person is an independent contractor in the construction
21 trades and not an employee under IC 22-3-2 through IC 22-3-6 if
22 the person is an independent contractor under the guidelines of
23 the United States Internal Revenue Service.

24 (8) An owner-operator that provides a motor vehicle and the
25 services of a driver under a written contract that is subject to
26 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor
27 carrier is not an employee of the motor carrier for purposes of
28 IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be
29 covered and have the owner-operator's drivers covered under a
30 worker's compensation insurance policy or authorized
31 self-insurance that insures the motor carrier if the owner-operator
32 pays the premiums as requested by the motor carrier. An election
33 by an owner-operator under this subdivision does not terminate
34 the independent contractor status of the owner-operator for any
35 purpose other than the purpose of this subdivision.

36 (9) A member or manager in a limited liability company may elect
37 to include the member or manager as an employee under
38 IC 22-3-2 through IC 22-3-6 if the member or manager is actually

1 engaged in the limited liability company business. If a member or
2 manager makes this election, the member or manager must serve
3 upon the member's or manager's insurance carrier and upon the
4 board written notice of the election. A member or manager may
5 not be considered an employee under IC 22-3-2 through IC 22-3-6
6 until the notice has been received.

7 (10) An unpaid participant under the federal School to Work
8 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
9 extent set forth in IC 22-3-2-2.5.

10 (c) "Minor" means an individual who has not reached seventeen
11 (17) years of age.

12 (1) Unless otherwise provided in this subsection, a minor
13 employee shall be considered as being of full age for all purposes
14 of IC 22-3-2 through IC 22-3-6.

15 (2) If the employee is a minor who, at the time of the accident, is
16 employed, required, suffered, or permitted to work in violation of
17 IC 20-8.1-4-25, the amount of compensation and death benefits,
18 as provided in IC 22-3-2 through IC 22-3-6, shall be double the
19 amount which would otherwise be recoverable. The insurance
20 carrier shall be liable on its policy for one-half (1/2) of the
21 compensation or benefits that may be payable on account of the
22 injury or death of the minor, and the employer shall be liable for
23 the other one-half (1/2) of the compensation or benefits. If the
24 employee is a minor who is not less than sixteen (16) years of age
25 and who has not reached seventeen (17) years of age and who at
26 the time of the accident is employed, suffered, or permitted to
27 work at any occupation which is not prohibited by law, this
28 subdivision does not apply.

29 (3) A minor employee who, at the time of the accident, is a
30 student performing services for an employer as part of an
31 approved program under IC 20-10.1-6-7 shall be considered a
32 full-time employee for the purpose of computing compensation
33 for permanent impairment under IC 22-3-3-10. The average
34 weekly wages for such a student shall be calculated as provided
35 in subsection (d)(4).

36 (4) The rights and remedies granted in this subsection to a minor
37 under IC 22-3-2 through IC 22-3-6 on account of personal injury
38 or death by accident shall exclude all rights and remedies of the

1 minor, the minor's parents, or the minor's personal
2 representatives, dependents, or next of kin at common law,
3 statutory or otherwise, on account of the injury or death. This
4 subsection does not apply to minors who have reached seventeen
5 (17) years of age.

6 (d) "Average weekly wages" means the earnings of the injured
7 employee in the employment in which the employee was working at the
8 time of the injury during the period of fifty-two (52) weeks
9 immediately preceding the date of injury, divided by fifty-two (52),
10 except as follows:

11 (1) If the injured employee lost seven (7) or more calendar days
12 during this period, although not in the same week, then the
13 earnings for the remainder of the fifty-two (52) weeks shall be
14 divided by the number of weeks and parts thereof remaining after
15 the time lost has been deducted.

16 (2) Where the employment prior to the injury extended over a
17 period of less than fifty-two (52) weeks, the method of dividing
18 the earnings during that period by the
19 number of weeks and parts thereof during which the employee
20 earned wages shall be followed, if results just and fair to both
21 parties will be obtained. Where by reason of the shortness of the
22 time during which the employee has been in the employment of
23 the employee's employer or of the casual nature or terms of the
24 employment it is impracticable to compute the average weekly
25 wages, as defined in this subsection, regard shall be had to the
26 average weekly amount which during the fifty-two (52) weeks
27 previous to the injury was being earned by a person in the same
28 grade employed at the same work by the same employer or, if
29 there is no person so employed, by a person in the same grade
30 employed in the same class of employment in the same district.

31 (3) Wherever allowances of any character made to an employee
32 in lieu of wages are a specified part of the wage contract, they
33 shall be deemed a part of ~~his~~ **the employee's** earnings.

34 (4) In computing the average weekly wages to be used in
35 calculating an award for permanent impairment under
36 IC 22-3-3-10 for a student employee in an approved training
37 program under IC 20-10.1-6-7, the following formula shall be
38 used. Calculate the product of:

- 1 (A) the student employee's hourly wage rate; multiplied by
- 2 (B) forty (40) hours.
- 3 The result obtained is the amount of the average weekly wages for
- 4 the student employee.
- 5 **(5) In computing the average weekly wage for an employee**
- 6 **who:**
- 7 **(A) has sustained a compensable occupational disease;**
- 8 **(B) has returned to work; and**
- 9 **(C) sustains a later period of disability due to that**
- 10 **occupational disease after June 30, 2003;**
- 11 **the average weekly wage for the later period of disability shall**
- 12 **be determined based on the average weekly wage at the time**
- 13 **of that disability, subject to the maximum average weekly**
- 14 **wage in effect as of the last day worked, computed as set forth**
- 15 **in IC 22-3-3-22.**
- 16 (e) "Injury" and "personal injury" mean only injury by accident
- 17 arising out of and in the course of the employment and do not include
- 18 a disease in any form except as it results from the injury.
- 19 (f) "Billing review service" refers to a person or an entity that
- 20 reviews a medical service provider's bills or statements for the purpose
- 21 of determining pecuniary liability. The term includes an employer's
- 22 worker's compensation insurance carrier if the insurance carrier
- 23 performs such a review.
- 24 (g) "Billing review standard" means the data used by a billing
- 25 review service to determine pecuniary liability.
- 26 (h) "Community" means a geographic service area based on zip
- 27 code districts defined by the United States Postal Service according to
- 28 the following groupings:
- 29 (1) The geographic service area served by zip codes with the first
- 30 three (3) digits 463 and 464.
- 31 (2) The geographic service area served by zip codes with the first
- 32 three (3) digits 465 and 466.
- 33 (3) The geographic service area served by zip codes with the first
- 34 three (3) digits 467 and 468.
- 35 (4) The geographic service area served by zip codes with the first
- 36 three (3) digits 469 and 479.
- 37 (5) The geographic service area served by zip codes with the first
- 38 three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under IC 22-3-2 through IC 22-3-6.

(j) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 29. IC 22-3-7-2.5, AS ADDED BY P.L.235-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

(b) A school to work student is entitled to the following compensation and benefits under this chapter:

(1) Medical benefits.

(2) Permanent partial impairment compensation under section 16 of this chapter. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000), **subject to section 21 of this chapter**, payable upon agreement or final award to any dependents of the student under sections 11 through 14 of this chapter, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under section 15 of this chapter.

(c) For the sole purpose of modifying an award under section 27 of this chapter, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this chapter:

(1) Temporary total disability compensation under section 16 of this chapter.

(2) Temporary partial disability compensation under section 19 of this chapter.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student; on account of disablement or death by occupational disease arising out of and in the course of school to work employment.

SECTION 30. IC 22-3-7-16, AS AMENDED BY P.L.1-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the

1 facts or circumstances that are necessary to determine liability within
 2 the additional thirty (30) days. More than thirty (30) days of additional
 3 time may be approved by the worker's compensation board upon the
 4 filing of a petition by the employer or the employer's insurance carrier
 5 that sets forth:

- 6 (1) the extraordinary circumstances that have precluded a
- 7 determination of liability within the initial sixty (60) days;
- 8 (2) the status of the investigation on the date the petition is filed;
- 9 (3) the facts or circumstances that are necessary to make a
- 10 determination; and
- 11 (4) a timetable for the completion of the remaining investigation.

12 **If a determination of liability is not made within thirty (30) days**
 13 **after the date the disablement begins, and the employer is**
 14 **subsequently determined to be liable to pay compensation, the first**
 15 **installment of compensation must include the accrued weekly**
 16 **compensation and interest at the legal rate of interest specified in**
 17 **IC 24-4.6-1-101 computed from the date fourteen (14) days after**
 18 **the disablement begins.**

19 An employer who fails to comply with this section is subject to a civil
 20 penalty of fifty dollars (\$50), to be assessed and collected by the board
 21 upon notice and hearing. Civil penalties collected under this section
 22 shall be deposited in the state general fund.

23 (b) Once begun, temporary total disability benefits may not be
 24 terminated by the employer unless:

- 25 (1) the employee has returned to work;
- 26 (2) the employee has died;
- 27 (3) the employee has refused to undergo a medical examination
- 28 under section 20 of this chapter;
- 29 (4) the employee has received five hundred (500) weeks of
- 30 temporary total disability benefits or has been paid the maximum
- 31 compensation allowable under section 19 of this chapter; ~~or~~
- 32 (5) the employee is unable or unavailable to work for reasons
- 33 unrelated to the compensable disease; **or**
- 34 **(6) the employee returns to work with limitations or**
- 35 **restrictions, and the employer converts temporary total**
- 36 **disability or temporary partial disability compensation into**
- 37 **disabled from trade compensation under section 16.5 of this**
- 38 **chapter.**

1 In all other cases the employer must notify the employee in writing **not**
2 **later than thirty (30) days before the effective date of the**
3 **termination** of the employer's intent to terminate the payment of
4 temporary total disability benefits, and of the availability of
5 employment, if any, on a form approved by the board. If the employee
6 disagrees with the proposed termination, the employee must give
7 written notice of disagreement to the board and the employer within
8 seven (7) days after receipt of the notice of intent to terminate benefits.
9 If the board and employer do not receive a notice of disagreement
10 under this section, the employee's temporary total disability benefits
11 shall be terminated. Upon receipt of the notice of disagreement, the
12 board shall immediately contact the parties, which may be by telephone
13 or other means and attempt to resolve the disagreement. If the board is
14 unable to resolve the disagreement within ten (10) days of receipt of
15 the notice of disagreement, the board shall immediately arrange for an
16 evaluation of the employee by an independent medical examiner. The
17 independent medical examiner shall be selected by mutual agreement
18 of the parties or, if the parties are unable to agree, appointed by the
19 board under IC 22-3-4-11. If the independent medical examiner
20 determines that the employee is no longer temporarily disabled or is
21 still temporarily disabled but can return to employment that the
22 employer has made available to the employee, or if the employee fails
23 or refuses to appear for examination by the independent medical
24 examiner, temporary total disability benefits may be terminated. If
25 either party disagrees with the opinion of the independent medical
26 examiner, the party shall apply to the board for a hearing under section
27 27 of this chapter.

28 (c) An employer is not required to continue the payment of
29 temporary total disability benefits for more than fourteen (14) days
30 after the employer's proposed termination date unless the independent
31 medical examiner determines that the employee is temporarily disabled
32 and unable to return to any employment that the employer has made
33 available to the employee.

34 (d) If it is determined that as a result of this section temporary total
35 disability benefits were overpaid, the overpayment shall be deducted
36 from any benefits due the employee under this section and, if there are
37 no benefits due the employee or the benefits due the employee do not
38 equal the amount of the overpayment, the employee shall be

1 responsible for paying any overpayment which cannot be deducted
2 from benefits due the employee.

3 (e) For disablements occurring on and after April 1, 1951, and prior
4 to July 1, 1971, from occupational disease resulting in temporary total
5 disability for any work there shall be paid to the disabled employee
6 during such temporary total disability a weekly compensation equal to
7 sixty percent (60%) of the employee's average weekly wages for a
8 period not to exceed five hundred (500) weeks. Compensation shall be
9 allowed for the first seven (7) calendar days only if the disability
10 continues for longer than twenty-eight (28) days.

11 For disablements occurring on and after July 1, 1971, and prior to
12 July 1, 1974, from occupational disease resulting in temporary total
13 disability for any work there shall be paid to the disabled employee
14 during such temporary total disability a weekly compensation equal to
15 sixty percent (60%) of the employee's average weekly wages, as
16 defined in section 19 of this chapter, for a period not to exceed five
17 hundred (500) weeks. Compensation shall be allowed for the first seven
18 (7) calendar days only if the disability continues for longer than
19 twenty-eight (28) days.

20 For disablements occurring on and after July 1, 1974, and before
21 July 1, 1976, from occupational disease resulting in temporary total
22 disability for any work there shall be paid to the disabled employee
23 during such temporary total disability a weekly compensation equal to
24 sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average
25 weekly wages, up to one hundred thirty-five dollars (\$135) average
26 weekly wages, as defined in section 19 of this chapter, for a period not
27 to exceed five hundred (500) weeks. Compensation shall be allowed for
28 the first seven (7) calendar days only if the disability continues for
29 longer than twenty-one (21) days.

30 For disablements occurring on and after July 1, 1976, from
31 occupational disease resulting in temporary total disability for any work
32 there shall be paid to the disabled employee during the temporary total
33 disability weekly compensation equal to sixty-six and two-thirds
34 percent ($66\frac{2}{3}\%$) of the employee's average weekly wages, as defined
35 in section 19 of this chapter, for a period not to exceed five hundred
36 (500) weeks. Compensation shall be allowed for the first seven (7)
37 calendar days only if the disability continues for longer than twenty-one
38 (21) days.

1 (f) For disablements occurring on and after April 1, 1951, and prior
2 to July 1, 1971, from occupational disease resulting in temporary
3 partial disability for work there shall be paid to the disabled employee
4 during such disability a weekly compensation equal to sixty percent
5 (60%) of the difference between the employee's average weekly wages
6 and the weekly wages at which the employee is actually employed after
7 the disablement, for a period not to exceed three hundred (300) weeks.
8 Compensation shall be allowed for the first seven (7) calendar days
9 only if the disability continues for longer than twenty-eight (28) days.
10 In case of partial disability after the period of temporary total disability,
11 the later period shall be included as part of the maximum period
12 allowed for partial disability.

13 For disablements occurring on and after July 1, 1971, and prior to
14 July 1, 1974, from occupational disease resulting in temporary partial
15 disability for work there shall be paid to the disabled employee during
16 such disability a weekly compensation equal to sixty percent (60%) of
17 the difference between the employee's average weekly wages, as
18 defined in section 19 of this chapter, and the weekly wages at which the
19 employee is actually employed after the disablement, for a period not
20 to exceed three hundred (300) weeks. Compensation shall be allowed
21 for the first seven (7) calendar days only if the disability continues for
22 longer than twenty-eight (28) days. In case of partial disability after the
23 period of temporary total disability, the latter period shall be included
24 as a part of the maximum period allowed for partial disability.

25 For disablements occurring on and after July 1, 1974, from
26 occupational disease resulting in temporary partial disability for work
27 there shall be paid to the disabled employee during such disability a
28 weekly compensation equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$)
29 of the difference between the employee's average weekly wages,
30 as defined in section 19 of this chapter, and the weekly wages at which
31 ~~he~~ **the employee** is actually employed after the disablement, for a
32 period not to exceed three hundred (300) weeks. Compensation shall
33 be allowed for the first seven (7) calendar days only if the disability
34 continues for longer than twenty-one (21) days. In case of partial
35 disability after the period of temporary total disability, the latter period
36 shall be included as a part of the maximum period allowed for partial
37 disability.

38 (g) For disabilities occurring on and after April 1, 1951, and prior

1 to April 1, 1955, from occupational disease in the following schedule,
 2 the employee shall receive in lieu of all other compensation, on account
 3 of such disabilities, a weekly compensation of sixty percent (60%) of
 4 the employee's average weekly wage; for disabilities occurring on and
 5 after April 1, 1955, and prior to July 1, 1971, from occupational disease
 6 in the following schedule, the employee shall receive in addition to
 7 disability benefits not exceeding twenty-six (26) weeks on account of
 8 said occupational disease a weekly compensation of sixty percent
 9 (60%) of the employee's average weekly wages.

10 For disabilities occurring on and after July 1, 1971, and before July
 11 1, 1977, from occupational disease in the following schedule, the
 12 employee shall receive in addition to disability benefits not exceeding
 13 twenty-six (26) weeks on account of said occupational disease a weekly
 14 compensation of sixty percent (60%) of ~~his~~ **the employee's** average
 15 weekly wages not to exceed one hundred dollars (\$100) average weekly
 16 wages, for the period stated for such disabilities respectively.

17 For disabilities occurring on and after July 1, 1977, and before July
 18 1, 1979, from occupational disease in the following schedule, the
 19 employee shall receive in addition to disability benefits not exceeding
 20 twenty-six (26) weeks on account of the occupational disease a weekly
 21 compensation of sixty percent (60%) of the employee's average weekly
 22 wages, not to exceed one hundred twenty-five dollars (\$125) average
 23 weekly wages, for the period stated for the disabilities.

24 For disabilities occurring on and after July 1, 1979, and before July
 25 1, 1988, from occupational disease in the following schedule, the
 26 employee shall receive in addition to disability benefits, not exceeding
 27 fifty-two (52) weeks on account of the occupational disease, a weekly
 28 compensation of sixty percent (60%) of the employee's average weekly
 29 wages, not to exceed one hundred twenty-five dollars (\$125) average
 30 weekly wages, for the period stated for the disabilities.

31 For disabilities occurring on and after July 1, 1988, and before July
 32 1, 1989, from occupational disease in the following schedule, the
 33 employee shall receive in addition to disability benefits, not exceeding
 34 seventy-eight (78) weeks on account of the occupational disease, a
 35 weekly compensation of sixty percent (60%) of the employee's average
 36 weekly wages, not to exceed one hundred sixty-six dollars (\$166)
 37 average weekly wages, for the period stated for the disabilities.

38 For disabilities occurring on and after July 1, 1989, and before July

1, 1990, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation

- 1 shall be paid for the same period as for the loss thereof by
2 separation.
- 3 (3) Partial Loss of Use: For the permanent partial loss of the use
4 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,
5 compensation shall be paid for the proportionate loss of the use of
6 such arm, hand, thumb, finger, leg, foot, toe, or phalange.
- 7 (4) For disablements for occupational disease resulting in total
8 permanent disability, five hundred (500) weeks.
- 9 (5) For the loss of both hands, or both feet, or the total sight of
10 both eyes, or any two (2) of such losses resulting from the same
11 disablement by occupational disease, five hundred (500) weeks.
- 12 (6) For the permanent and complete loss of vision by enucleation
13 of an eye or its reduction to one-tenth (1/10) of normal vision with
14 glasses, one hundred fifty (150) weeks, and for any other
15 permanent reduction of the sight of an eye, compensation shall be
16 paid for a period proportionate to the degree of such permanent
17 reduction without correction or glasses. However, when such
18 permanent reduction without correction or glasses would result in
19 one hundred percent (100%) loss of vision, but correction or
20 glasses would result in restoration of vision, then compensation
21 shall be paid for fifty percent (50%) of such total loss of vision
22 without glasses plus an additional amount equal to the
23 proportionate amount of such reduction with glasses, not to
24 exceed an additional fifty percent (50%).
- 25 (7) For the permanent and complete loss of hearing, two hundred
26 (200) weeks.
- 27 (8) In all other cases of permanent partial impairment,
28 compensation proportionate to the degree of such permanent
29 partial impairment, in the discretion of the worker's compensation
30 board, not exceeding five hundred (500) weeks.
- 31 (9) In all cases of permanent disfigurement, which may impair the
32 future usefulness or opportunities of the employee, compensation
33 in the discretion of the worker's compensation board, not
34 exceeding two hundred (200) weeks, except that no compensation
35 shall be payable under this paragraph where compensation shall
36 be payable under subdivisions (1) through (8). Where
37 compensation for temporary total disability has been paid, this
38 amount of compensation shall be deducted from any

1 compensation due for permanent disfigurement.

2 With respect to disablements in the following schedule occurring on
3 and after July 1, 1991, the employee shall receive in addition to
4 temporary total disability benefits, not exceeding one hundred
5 twenty-five (125) weeks on account of the disablement, compensation
6 in an amount determined under the following schedule to be paid
7 weekly at a rate of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the
8 employee's average weekly wages during the fifty-two (52) weeks
9 immediately preceding the week in which the disablement occurred:

10 (1) Amputation: For the loss by separation of the thumb, twelve
11 (12) degrees of permanent impairment; of the index finger, eight
12 (8) degrees of permanent impairment; of the second finger, seven
13 (7) degrees of permanent impairment; of the third or ring finger,
14 six (6) degrees of permanent impairment; of the fourth or little
15 finger, four (4) degrees of permanent impairment; of the hand by
16 separation below the elbow joint, forty (40) degrees of permanent
17 impairment; of the arm above the elbow, fifty (50) degrees of
18 permanent impairment; of the big toe, twelve (12) degrees of
19 permanent impairment; of the second toe, six (6) degrees of
20 permanent impairment; of the third toe, four (4) degrees of
21 permanent impairment; of the fourth toe, three (3) degrees of
22 permanent impairment; of the fifth or little toe, two (2) degrees of
23 permanent impairment; of separation of the foot below the knee
24 joint, thirty-five (35) degrees of permanent impairment; and of the
25 leg above the knee joint, forty-five (45) degrees of permanent
26 impairment.

27 (2) Amputations occurring on or after July 1, 1997: For the loss
28 by separation of any of the body parts described in subdivision (1)
29 on or after July 1, 1997, the dollar values per degree applying on
30 the date of the injury as described in subsection (h) shall be
31 multiplied by two (2). However, the doubling provision of this
32 subdivision does not apply to a loss of use that is not a loss by
33 separation.

34 (3) The loss of more than one (1) phalange of a thumb or toe shall
35 be considered as the loss of the entire thumb or toe. The loss of
36 more than two (2) phalanges of a finger shall be considered as the
37 loss of the entire finger. The loss of not more than one (1)
38 phalange of a thumb or toe shall be considered as the loss of

1 one-half (1/2) of the degrees of permanent impairment for the loss
 2 of the entire thumb or toe. The loss of not more than one (1)
 3 phalange of a finger shall be considered as the loss of one-third
 4 (1/3) of the finger and compensation shall be paid for one-third
 5 (1/3) of the degrees payable for the loss of the entire finger. The
 6 loss of more than one (1) phalange of the finger but not more than
 7 two (2) phalanges of the finger shall be considered as the loss of
 8 one-half (1/2) of the finger and compensation shall be paid for
 9 one-half (1/2) of the degrees payable for the loss of the entire
 10 finger.

11 (4) For the loss by separation of both hands or both feet or the
 12 total sight of both eyes or any two (2) such losses in the same
 13 accident, one hundred (100) degrees of permanent impairment.

14 (5) For the permanent and complete loss of vision by enucleation
 15 or its reduction to one-tenth (1/10) of normal vision with glasses,
 16 thirty-five (35) degrees of permanent impairment.

17 (6) For the permanent and complete loss of hearing in one (1) ear,
 18 fifteen (15) degrees of permanent impairment, and in both ears,
 19 forty (40) degrees of permanent impairment.

20 (7) For the loss of one (1) testicle, ten (10) degrees of permanent
 21 impairment; for the loss of both testicles, thirty (30) degrees of
 22 permanent impairment.

23 (8) Loss of use: The total permanent loss of the use of an arm, a
 24 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
 25 considered as the equivalent of the loss by separation of the arm,
 26 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
 27 shall be paid in the same amount as for the loss by separation.
 28 However, the doubling provision of subdivision (2) does not
 29 apply to a loss of use that is not a loss by separation.

30 (9) Partial loss of use: For the permanent partial loss of the use of
 31 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
 32 phalange, compensation shall be paid for the proportionate loss of
 33 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

34 (10) For disablements resulting in total permanent disability, the
 35 amount payable for impairment or five hundred (500) weeks of
 36 compensation, whichever is greater.

37 (11) For any permanent reduction of the sight of an eye less than
 38 a total loss as specified in subdivision (5), the compensation shall

1 be paid in an amount proportionate to the degree of a permanent
 2 reduction without correction or glasses. However, when a
 3 permanent reduction without correction or glasses would result in
 4 one hundred percent (100%) loss of vision, then compensation
 5 shall be paid for fifty percent (50%) of the total loss of vision
 6 without glasses, plus an additional amount equal to the
 7 proportionate amount of the reduction with glasses, not to exceed
 8 an additional fifty percent (50%).

9 (12) For any permanent reduction of the hearing of one (1) or both
 10 ears, less than the total loss as specified in subdivision (6),
 11 compensation shall be paid in an amount proportionate to the
 12 degree of a permanent reduction.

13 (13) In all other cases of permanent partial impairment,
 14 compensation proportionate to the degree of a permanent partial
 15 impairment, in the discretion of the worker's compensation board,
 16 not exceeding one hundred (100) degrees of permanent
 17 impairment.

18 (14) In all cases of permanent disfigurement which may impair
 19 the future usefulness or opportunities of the employee,
 20 compensation, in the discretion of the worker's compensation
 21 board, not exceeding forty (40) degrees of permanent impairment
 22 except that no compensation shall be payable under this
 23 subdivision where compensation is payable elsewhere in this
 24 section.

25 (h) With respect to disablements occurring on and after July 1,
 26 1991, compensation for permanent partial impairment shall be paid
 27 according to the degree of permanent impairment for the disablement
 28 determined under subsection (d) and the following:

29 (1) With respect to disablements occurring on and after July 1,
 30 1991, and before July 1, 1992, for each degree of permanent
 31 impairment from one (1) to thirty-five (35), five hundred dollars
 32 (\$500) per degree; for each degree of permanent impairment from
 33 thirty-six (36) to fifty (50), nine hundred dollars (\$900) per
 34 degree; for each degree of permanent impairment above fifty (50),
 35 one thousand five hundred dollars (\$1,500) per degree.

36 (2) With respect to disablements occurring on and after July 1,
 37 1992, and before July 1, 1993, for each degree of permanent
 38 impairment from one (1) to twenty (20), five hundred dollars

1 (\$500) per degree; for each degree of permanent impairment from
2 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
3 per degree; for each degree of permanent impairment from
4 thirty-six (36) to fifty (50), one thousand three hundred dollars
5 (\$1,300) per degree; for each degree of permanent impairment
6 above fifty (50), one thousand seven hundred dollars (\$1,700) per
7 degree.

8 (3) With respect to disablements occurring on and after July 1,
9 1993, and before July 1, 1997, for each degree of permanent
10 impairment from one (1) to ten (10), five hundred dollars (\$500)
11 per degree; for each degree of permanent impairment from eleven
12 (11) to twenty (20), seven hundred dollars (\$700) per degree; for
13 each degree of permanent impairment from twenty-one (21) to
14 thirty-five (35), one thousand dollars (\$1,000) per degree; for
15 each degree of permanent impairment from thirty-six (36) to fifty
16 (50), one thousand four hundred dollars (\$1,400) per degree; for
17 each degree of permanent impairment above fifty (50), one
18 thousand seven hundred dollars (\$1,700) per degree.

19 (4) With respect to disablements occurring on and after July 1,
20 1997, and before July 1, 1998, for each degree of permanent
21 impairment from one (1) to ten (10), seven hundred fifty dollars
22 (\$750) per degree; for each degree of permanent impairment from
23 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
24 degree; for each degree of permanent impairment from thirty-six
25 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
26 degree; for each degree of permanent impairment above fifty (50),
27 one thousand seven hundred dollars (\$1,700) per degree.

28 (5) With respect to disablements occurring on and after July 1,
29 1998, and before July 1, 1999, for each degree of permanent
30 impairment from one (1) to ten (10), seven hundred fifty dollars
31 (\$750) per degree; for each degree of permanent impairment from
32 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
33 degree; for each degree of permanent impairment from thirty-six
34 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
35 degree; for each degree of permanent impairment above fifty (50),
36 one thousand seven hundred dollars (\$1,700) per degree.

37 (6) With respect to disablements occurring on and after July 1,
38 1999, and before July 1, 2000, for each degree of permanent

1 impairment from one (1) to ten (10), nine hundred dollars (\$900)
 2 per degree; for each degree of permanent impairment from eleven
 3 (11) to thirty-five (35), one thousand one hundred dollars
 4 (\$1,100) per degree; for each degree of permanent impairment
 5 from thirty-six (36) to fifty (50), one thousand six hundred dollars
 6 (\$1,600) per degree; for each degree of permanent impairment
 7 above fifty (50), two thousand dollars (\$2,000) per degree.

8 (7) With respect to disablements occurring on and after July 1,
 9 2000, and before July 1, 2001, for each degree of permanent
 10 impairment from one (1) to ten (10), one thousand one hundred
 11 dollars (\$1,100) per degree; for each degree of permanent
 12 impairment from eleven (11) to thirty-five (35), one thousand
 13 three hundred dollars (\$1,300) per degree; for each degree of
 14 permanent impairment from thirty-six (36) to fifty (50), two
 15 thousand dollars (\$2,000) per degree; for each degree of
 16 permanent impairment above fifty (50), two thousand five
 17 hundred fifty dollars (\$2,500) per degree.

18 (8) With respect to disablements occurring on and after July 1,
 19 2001, **and before July 1, 2003**, for each degree of permanent
 20 impairment from one (1) to ten (10), one thousand three hundred
 21 dollars (\$1,300) per degree; for each degree of permanent
 22 impairment from eleven (11) to thirty-five (35), one thousand five
 23 hundred dollars (\$1,500) per degree; for each degree of
 24 permanent impairment from thirty-six (36) to fifty (50), two
 25 thousand four hundred dollars (\$2,400) per degree; for each
 26 degree of permanent impairment above fifty (50), three thousand
 27 dollars (\$3,000) per degree.

28 **(9) With respect to disablements occurring on and after July**
 29 **1, 2003, and before July 1, 2004, for each degree of permanent**
 30 **impairment from one (1) to ten (10), two thousand fifty-six**
 31 **dollars (\$2,056) per degree; for each degree of permanent**
 32 **impairment from eleven (11) to thirty-five (35), two thousand**
 33 **seven hundred six dollars (\$2,706) per degree; for each degree**
 34 **of permanent impairment from thirty-six (36) to fifty (50),**
 35 **three thousand three hundred six dollars (\$3,306) per degree;**
 36 **for each degree of permanent impairment above fifty (50),**
 37 **three thousand nine hundred six dollars (\$3,906) per degree.**

38 **(10) With respect to disablements occurring on and after July**

1 **1, 2004, for each degree of permanent impairment from one**
 2 **(1) to ten (10), two thousand four hundred six dollars (\$2,406)**
 3 **per degree; for each degree of permanent impairment from**
 4 **eleven (11) to thirty-five (35), three thousand eighty-one**
 5 **dollars (\$3,081) per degree; for each degree of permanent**
 6 **impairment from thirty-six (36) to fifty (50), three thousand**
 7 **seven hundred eighty-one dollars (\$3,781) per degree; for**
 8 **each degree of permanent impairment above fifty (50), four**
 9 **thousand five hundred thirty-one dollars (\$4,531) per degree.**

10 (i) The average weekly wages used in the determination of
 11 compensation for permanent partial impairment under subsections (g)
 12 and (h) shall not exceed the following:

13 (1) With respect to disablements occurring on or after July 1,
 14 1991, and before July 1, 1992, four hundred ninety-two dollars
 15 (\$492).

16 (2) With respect to disablements occurring on or after July 1,
 17 1992, and before July 1, 1993, five hundred forty dollars (\$540).

18 (3) With respect to disablements occurring on or after July 1,
 19 1993, and before July 1, 1994, five hundred ninety-one dollars
 20 (\$591).

21 (4) With respect to disablements occurring on or after July 1,
 22 1994, and before July 1, 1997, six hundred forty-two dollars
 23 (\$642).

24 (5) With respect to disablements occurring on or after July 1,
 25 1997, and before July 1, 1998, six hundred seventy-two dollars
 26 (\$672).

27 (6) With respect to disablements occurring on or after July 1,
 28 1998, and before July 1, 1999, seven hundred two dollars (\$702).

29 (7) With respect to disablements occurring on or after July 1,
 30 1999, and before July 1, 2000, seven hundred thirty-two dollars
 31 (\$732).

32 (8) With respect to disablements occurring on or after July 1,
 33 2000, and before July 1, 2001, seven hundred sixty-two dollars
 34 (\$762).

35 (9) With respect to ~~injuries~~ **disablements** occurring on or after
 36 July 1, 2001, and before July 1, 2002, eight hundred twenty-two
 37 dollars (\$822).

38 (10) With respect to ~~injuries~~ **disablements** occurring on or after

1 July 1, 2002, and before July 1, 2003, eight hundred eighty-two
2 dollars (\$882).

3 **(11) With respect to disablements occurring on or after July**
4 **1, 2003, and before July 1, 2004, nine hundred forty-eight**
5 **dollars (\$948).**

6 **(12) With respect to disablements occurring on or after July**
7 **1, 2004, one thousand fourteen dollars (\$1,014).**

8 (j) If any employee, only partially disabled, refuses employment
9 suitable to ~~his~~ **the employee's** capacity, ~~procured for him, he the~~
10 **employee** shall not be entitled to any compensation at any time during
11 the continuance of such refusal unless, in the opinion of the worker's
12 compensation board, such refusal was justifiable. The employee must
13 be served with a notice setting forth the consequences of the refusal
14 under this subsection. The notice must be in a form prescribed by the
15 worker's compensation board.

16 (k) If an employee has sustained a permanent impairment or
17 disability from an accidental injury other than an occupational disease
18 in another employment than that in which ~~he~~ **the employee** suffered a
19 subsequent disability from an occupational disease, such as herein
20 specified, the employee shall be entitled to compensation for the
21 subsequent disability in the same amount as if the previous impairment
22 or disability had not occurred. However, if the permanent impairment
23 or disability resulting from an occupational disease for which
24 compensation is claimed results only in the aggravation or increase of
25 a previously sustained permanent impairment from an occupational
26 disease or physical condition regardless of the source or cause of such
27 previously sustained impairment from an occupational disease or
28 physical condition, the board shall determine the extent of the
29 previously sustained permanent impairment from an occupational
30 disease or physical condition as well as the extent of the aggravation or
31 increase resulting from the subsequent permanent impairment or
32 disability, and shall award compensation only for that part of said
33 occupational disease or physical condition resulting from the
34 subsequent permanent impairment. An amputation of any part of the
35 body or loss of any or all of the vision of one (1) or both eyes caused by
36 an occupational disease shall be considered as a permanent impairment
37 or physical condition.

38 (l) If an employee suffers a disablement from occupational disease

1 for which compensation is payable while the employee is still receiving
 2 or entitled to compensation for a previous injury by accident or
 3 disability by occupational disease in the same employment, ~~he~~ **the**
 4 **employee** shall not at the same time be entitled to compensation for
 5 both, unless it be for a permanent injury, such as specified in
 6 subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9); but the employee
 7 shall be entitled to compensation for that disability and from the time
 8 of that disability which will cover the longest period and the largest
 9 amount payable under this chapter.

10 (m) If an employee receives a permanent disability from
 11 occupational disease such as specified in subsection (g)(1), (g)(4),
 12 (g)(5), (g)(8), or (g)(9) after having sustained another such permanent
 13 disability in the same employment the employee shall be entitled to
 14 compensation for both such disabilities, but the total compensation
 15 shall be paid by extending the period and not by increasing the amount
 16 of weekly compensation and, when such previous and subsequent
 17 permanent disabilities, in combination result in total permanent
 18 disability or permanent total impairment, compensation shall be
 19 payable for such permanent total disability or impairment, but
 20 payments made for the previous disability or impairment shall be
 21 deducted from the total payment of compensation due.

22 (n) When an employee has been awarded or is entitled to an award
 23 of compensation for a definite period under this chapter for disability
 24 from occupational disease, which disablement occurs on and after April
 25 1, 1951, and prior to April 1, 1963, and such employee dies from any
 26 other cause than such occupational disease, payment of the unpaid
 27 balance of such compensation, not exceeding three hundred (300)
 28 weeks, shall be made to the employee's dependents of the second and
 29 third class as defined in sections 11 through 14 of this chapter, and
 30 compensation, not exceeding five hundred (500) weeks, shall be made
 31 to the employee's dependents of the first class as defined in sections 11
 32 through 14 of this chapter. When an employee has been awarded or is
 33 entitled to an award of compensation for a definite period from an
 34 occupational disease wherein disablement occurs on and after April 1,
 35 1963, and such employee dies from other causes than such
 36 occupational disease, payment of the unpaid balance of such
 37 compensation not exceeding three hundred fifty (350) weeks shall be
 38 paid to the employee's dependents of the second and third class as

1 defined in sections 11 through 14 of this chapter and compensation, not
2 exceeding five hundred (500) weeks shall be made to the employee's
3 dependents of the first class as defined in sections 11 through 14 of this
4 chapter.

5 (o) Any payment made by the employer to the employee during the
6 period of the employee's disability, or to the employee's dependents,
7 which, by the terms of this chapter, was not due and payable when
8 made, may, subject to the approval of the worker's compensation board,
9 be deducted from the amount to be paid as compensation, but such
10 deduction shall be made from the distal end of the period during which
11 compensation must be paid, except in cases of temporary disability.

12 (p) When so provided in the compensation agreement or in the
13 award of the worker's compensation board, compensation may be paid
14 semimonthly, or monthly, instead of weekly.

15 (q) When the aggregate payments of compensation awarded by
16 agreement or upon hearing to an employee or dependent under eighteen
17 (18) years of age do not exceed one hundred dollars (\$100), the
18 payment thereof may be made directly to such employee or dependent,
19 except when the worker's compensation board shall order otherwise.

20 Whenever the aggregate payments of compensation, due to any
21 person under eighteen (18) years of age, exceed one hundred dollars
22 (\$100), the payment thereof shall be made to a trustee, appointed by the
23 circuit or superior court, or to a duly qualified guardian, or, upon the
24 order of the worker's compensation board, to a parent or to such minor
25 person. The payment of compensation, due to any person eighteen (18)
26 years of age or over, may be made directly to such person.

27 (r) If an employee, or a dependent, is mentally incompetent, or a
28 minor at the time when any right or privilege accrues to the employee
29 under this chapter, the employee's guardian or trustee may, in the
30 employee's behalf, claim and exercise such right and privilege.

31 (s) All compensation payments named and provided for in this
32 section, shall mean and be defined to be for only such occupational
33 diseases and disabilities therefrom as are proved by competent
34 evidence, of which there are or have been objective conditions or
35 symptoms proven, not within the physical or mental control of the
36 employee himself.

37 **(t) Each payment of compensation due under this section shall**
38 **be reduced or increased as provided in section 21 of this chapter.**

1 SECTION 31. IC 22-3-7-16.1 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2003]: **Sec. 16.1. (a) As used in this section,**
4 **"board" refers to the worker's compensation board created by**
5 **IC 22-3-1-1.**

6 **(b) If an employee suffers a second disablement from**
7 **occupational disease resulting in the permanent and total**
8 **impairment of the employee, the employer is liable only for the**
9 **compensation payable for the second injury. However, in addition**
10 **to the compensation payable for the second injury and after the**
11 **employer completes the payment of the compensation, the**
12 **employee shall be paid the remainder of the compensation that**
13 **would be due for the total permanent impairment out of the**
14 **occupational disease second injury fund.**

15 **(c) Whenever the board determines under the procedures set**
16 **forth in subsection (d) that an assessment is necessary to ensure**
17 **that fund beneficiaries continue to receive compensation in a timely**
18 **manner for a reasonable prospective period, the board shall send**
19 **notice not later than October 1 in any year to:**

20 **(1) all insurance carriers and other entities insuring or**
21 **providing coverage to employers that are or may be liable**
22 **under this article to pay compensation for personal injuries to**
23 **or the death of one (1) of their employees from an**
24 **occupational disease; and**

25 **(2) each employer carrying the employer's own risk for**
26 **personal injuries to or the death of one (1) of its employees**
27 **from an occupational disease;**

28 **stating that an assessment is necessary. The board may conduct an**
29 **assessment under this subsection not more than one (1) time**
30 **annually. Every insurance carrier insuring employers that are or**
31 **may be liable under this article to pay compensation for**
32 **disablement or death from occupational diseases of their employees**
33 **under this article and every employer carrying the employer's own**
34 **risk shall, not later than thirty (30) days after receiving notice from**
35 **the board, pay to the worker's compensation board for the benefit**
36 **of the occupational disease second injury fund. The payment shall**
37 **be in a sum equal to three and one-half percent (3.5%) of the total**
38 **amount of all payments under this chapter for occupational**

1 diseases paid to employees with occupational diseases or their
2 beneficiaries under this chapter for the calendar year next
3 preceding the due date of the payment.

4 (d) The board shall enter into a contract with an actuary or
5 another qualified firm that has experience in calculating worker's
6 compensation liabilities. Not later than September 1 of each year,
7 the actuary or other qualified firm shall calculate the
8 recommended funding level of the fund based on the previous
9 year's claims and inform the board of the results of the calculation.
10 If the amount to the credit of the fund is less than the amount
11 required under subsection (c), the board may conduct an
12 assessment under subsection (c). The board shall pay the costs of
13 the contract under this subsection with money in the fund.

14 (e) An assessment collected under subsection (c) on an employer
15 that is not self-insured must be assessed through a surcharge based
16 on the employer's premium. An assessment collected under
17 subsection (c) does not constitute an element of loss, but for the
18 purpose of collection shall be treated as a separate cost imposed
19 upon insured employers. A premium surcharge under this
20 subsection must be collected at the same time and in the same
21 manner in which the premium for coverage is collected and must
22 be shown as a separate amount on a premium statement. A
23 premium surcharge under this subsection must be excluded from
24 the definition of premium for all purposes, including the
25 computation of agent commissions or premium taxes. However, an
26 insurer may cancel a worker's compensation policy for
27 nonpayment of the premium surcharge. A cancellation under this
28 subsection must be carried out under the statutes applicable to the
29 nonpayment of premiums.

30 (f) The occupational diseases second injury fund is created. The
31 sums under this section shall be paid by the worker's compensation
32 board to the treasurer of state, to be deposited in the occupational
33 diseases second injury fund. The fund is not part of the state
34 general fund. Any balance remaining in the account at the end of
35 any fiscal year does not revert to the state general fund. The fund
36 shall be used only for the payment of awards of compensation
37 ordered by the board and chargeable against the occupational
38 diseases second injury fund under this section and shall be paid for

1 that purpose by the treasurer of state upon award or order of the
2 board.

3 (g) If an employee who is entitled to compensation under this
4 chapter either:

5 (1) exhausts the maximum benefits under section 19 of this
6 chapter without having received the full amount of award
7 granted to the employee under section 16 of this chapter; or

8 (2) exhausts the employee's benefits under section 16 of this
9 chapter;

10 the employee may apply to the worker's compensation board,
11 which may award the employee compensation from the
12 occupational diseases second injury fund established by this
13 section, as provided under subsection (b).

14 (h) An employee who has exhausted the employee's maximum
15 compensation under section 16 of this chapter may be awarded
16 reasonable amounts of compensation taking into consideration the
17 employee's average weekly wage at the time of the employee's
18 disablement, the number of recipients entitled to compensation
19 from the occupational diseases second injury fund, and the amount
20 of money within the occupational diseases second injury fund at the
21 time of the application, not to exceed the maximum then applicable
22 under section 19 of this chapter, for a period not to exceed one
23 hundred fifty (150) weeks, upon competent evidence sufficient to
24 establish:

25 (1) that the employee is totally and permanently disabled from
26 an occupational disease of which there are or have been
27 objective conditions and symptoms proven that are not within
28 the physical or mental control of the employee; and

29 (2) that the employee is unable to support the employee in any
30 gainful employment not associated with rehabilitative or
31 vocational therapy.

32 (i) The additional award may be renewed during the employee's
33 total and permanent disability after appropriate hearings by the
34 worker's compensation board for successive periods not to exceed
35 one hundred fifty (150) weeks each.

36 (j) Each:

37 (1) insurance carrier or other entity insuring or providing
38 coverage to an employer that is or may be liable under this

1 article to pay compensation for personal injuries to or the
 2 death of one (1) of the employer's employees from an
 3 occupational disease; and

4 (2) employer carrying the employer's own risk for personal
 5 injuries to or the death of one (1) of the employer's employees
 6 from an occupational disease;

7 that does not comply with this section is subject to a fine of two
 8 hundred fifty dollars (\$250) that shall be paid into the occupational
 9 diseases second injury fund created under subsection (f).

10 (k) In addition to assessing the fine provided under subsection
 11 (j), the board shall refer an insurance carrier that does not comply
 12 with this section to the department of insurance for administrative
 13 action for committing an unfair or deceptive act and practice
 14 under IC 27-4-1.

15 SECTION 32. IC 22-3-7-16.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) If an employee:

18 (1) suffers an occupational disease that results in a temporary
 19 total disability or a temporary partial disability;

20 (2) is capable of performing work with permanent limitations
 21 or restrictions that prevent the employee from returning to
 22 the position the employee held before the employee's
 23 occupational disease; and

24 (3) is enrolled in a training program approved by:

25 (A) the incumbent workers training board established by
 26 IC 22-4-18.3-2; or

27 (B) the Indiana unemployment insurance board created by
 28 IC 22-4-18-2;

29 the employee may receive disabled from trade compensation.

30 (b) An employee may receive disabled from trade compensation
 31 for a period not to exceed:

32 (1) fifty-two (52) consecutive weeks; or

33 (2) seventy-eight (78) total weeks.

34 (c) An employee is entitled to receive disabled from trade
 35 compensation in a weekly amount equal to the difference between
 36 the employee's average weekly wage from employment at the time
 37 of the injury and the employee's average weekly wage from
 38 employment after the injury with the permanent restrictions or

1 limitations resulting from the injury.

2 (d) The amount of disabled from trade compensation may not
3 exceed the maximum average weekly wage amounts set forth in
4 section 19 of this chapter.

5 (e) Not later than sixty (60) days after the employee's release to
6 return to work with restrictions or limitations, the employee must
7 receive notice from the employer on a form provided by the board
8 that informs the employee that the employee has been released to
9 work with limitations or restrictions. The notice must include:

10 (1) an explanation of the limitations or restrictions placed on
11 the employee;

12 (2) the amount of disabled from trade compensation the
13 employee has been awarded; and

14 (3) information for the employee regarding the terms of this
15 section.

16 (f) Disabled from trade compensation is in addition to any other
17 compensation awarded to an employee as a result of a temporary
18 total disability or a permanent partial impairment.

19 (g) An employer may unilaterally convert an award of
20 compensation for a temporary total disability or a temporary
21 partial disability into disabled from trade compensation by filing
22 a copy of the notice required under subsection (e) with the board.

23 SECTION 33. IC 22-3-7-17, AS AMENDED BY P.L.31-2000,
24 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2003]: Sec. 17. (a) During the period of disablement, the
26 employer shall furnish or cause to be furnished, free of charge to the
27 employee, an attending physician for the treatment of ~~his~~ **the**
28 **employee's** occupational disease, and in addition thereto such surgical,
29 hospital, and nursing services and supplies as the attending physician
30 or the worker's compensation board may deem necessary. If the
31 employee is requested or required by the employer to submit to
32 treatment outside the county of employment, the employer shall also
33 pay the reasonable expense of travel, food, and lodging necessary
34 during the travel, but not to exceed the amount paid at the time of the
35 travel by the state of Indiana to its employees. If the treatment or travel
36 to or from the place of treatment causes a loss of working time to the
37 employee, the employer shall reimburse the employee for the loss of
38 wages using the basis of the employee's average daily wage.

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and supplies be furnished by or on behalf of the employer as the board may deem reasonably necessary. After an employee's occupational disease has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27(i) of this chapter, the employer may continue to furnish a physician or a surgeon and other medical services and supplies, and the board may, within such statutory period for review as provided in section 27(i) of this chapter, on a proper application of either party, require that treatment by such physician or surgeon and such services and supplies be furnished by and on behalf of the employer as the board may deem necessary to limit or reduce the amount and extent of such impairment. The refusal of the employee to accept such services and supplies when so provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of such refusal and ~~his~~ **the employee's** right to prosecute any proceeding under this chapter shall be suspended and abated until such refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of such impairment, disfigurement, or death which is the result of the failure of such employee to accept such treatment, services, and supplies, provided that an employer may at any time permit an employee to have treatment for ~~his~~ **the employee's** disease or injury by spiritual means or prayer in lieu of such physician, services, and supplies.

(c) After the employee's medical treatment begins, neither the employer nor the employer's insurance carrier has the right to transfer or otherwise redirect an employee's medical treatment to another physician unless:

- (1) the employee makes the transfer request;**
- (2) the attending physician requests that the physician's**

1 treatment of the employee be discontinued; or

2 (3) the worker's compensation board determines that there is
3 good cause for the transfer.

4 (d) If the employer or the employer's insurance carrier desires
5 to transfer or redirect the employee's medical treatment for good
6 cause, the employer or the employer's insurance carrier shall file
7 a transfer request with the worker's compensation board on forms
8 prescribed by the board. A transfer may not occur until the
9 worker's compensation board issues an order granting the transfer
10 request.

11 (e) A representative of the employer or the employer's insurance
12 carrier, including a case manager or a rehabilitation nurse, may
13 not attend or be present during the employee's medical treatment
14 unless the representative complies with all of the following
15 provisions:

16 (1) Both the employee and the treating medical personnel
17 provide express written consent.

18 (2) The written consent described in subdivision (1) is
19 required before the representative may attend or be present
20 during the employee's medical treatment.

21 (3) The representative may not jeopardize or threaten to
22 jeopardize the payment of the employee's compensation under
23 this article because the employee fails or refuses to complete
24 the written consent described in subdivision (1).

25 (4) The representative may not cause the employee to believe
26 that the employee's compensation under this article may be
27 terminated or reduced because the employee fails or refuses
28 to complete the written consent described in subdivision (1).

29 (5) The representative shall obtain the written consents
30 required by subdivision (1) on forms prescribed by the
31 worker's compensation board.

32 (f) Regardless of when it occurs, where a compensable occupational
33 disease results in the amputation of a body part, the enucleation of an
34 eye, or the loss of natural teeth, the employer shall furnish an
35 appropriate artificial member, braces, and prosthodontics. The cost of
36 repairs to or replacements for the artificial members, braces, or
37 prosthodontics that result from a compensable occupational disease
38 pursuant to a prior award and are required due to either medical

necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the **occupational diseases** second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

~~(d)~~ **(g)** If an emergency or because of the employer's failure to provide such attending physician or such surgical, hospital, or nurse's services and supplies or such treatment by spiritual means or prayer as specified in this section, or for other good reason, a physician other than that provided by the employer treats the diseased employee within the period of disability, or necessary and proper surgical, hospital, or nurse's services and supplies are procured within the period, the reasonable cost of such services and supplies shall, subject to approval of the worker's compensation board, be paid by the employer.

~~(e)~~ **(h)** This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

- (1) binds the parties to medical care furnished by providers selected by agreement before or after disablement; or
- (2) makes the findings of a provider chosen in this manner binding upon the parties.

~~(f)~~ **(i)** The employee and the employee's estate do not have liability to a health care provider for payment for services obtained under this section. The right to order payment for all services provided under this chapter is solely with the board. All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter.

SECTION 34. IC 22-3-7-19, AS AMENDED BY P.L.31-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

- (1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:
 - (A) not more than one hundred thirty-five dollars (\$135); and

- 1 (B) not less than seventy-five dollars (\$75);
- 2 (2) on and after July 1, 1976, and before July 1, 1977, the average
- 3 weekly wages shall be considered to be:
- 4 (A) not more than one hundred fifty-six dollars (\$156); and
- 5 (B) not less than seventy-five dollars (\$75);
- 6 (3) on and after July 1, 1977, and before July 1, 1979, the average
- 7 weekly wages are considered to be:
- 8 (A) not more than one hundred eighty dollars (\$180); and
- 9 (B) not less than seventy-five dollars (\$75);
- 10 (4) on and after July 1, 1979, and before July 1, 1980, the average
- 11 weekly wages are considered to be:
- 12 (A) not more than one hundred ninety-five dollars (\$195); and
- 13 (B) not less than seventy-five dollars (\$75);
- 14 (5) on and after July 1, 1980, and before July 1, 1983, the average
- 15 weekly wages are considered to be:
- 16 (A) not more than two hundred ten dollars (\$210); and
- 17 (B) not less than seventy-five dollars (\$75);
- 18 (6) on and after July 1, 1983, and before July 1, 1984, the average
- 19 weekly wages are considered to be:
- 20 (A) not more than two hundred thirty-four dollars (\$234); and
- 21 (B) not less than seventy-five dollars (\$75); and
- 22 (7) on and after July 1, 1984, and before July 1, 1985, the average
- 23 weekly wages are considered to be:
- 24 (A) not more than two hundred forty-nine dollars (\$249); and
- 25 (B) not less than seventy-five dollars (\$75).
- 26 (b) In computing compensation for temporary total disability,
- 27 temporary partial disability, and total permanent disability, with respect
- 28 to occupational diseases occurring on and after July 1, 1985, and before
- 29 July 1, 1986, the average weekly wages are considered to be:
- 30 (1) not more than two hundred sixty-seven dollars (\$267); and
- 31 (2) not less than seventy-five dollars (\$75).
- 32 (c) In computing compensation for temporary total disability,
- 33 temporary partial disability, and total permanent disability, with respect
- 34 to occupational diseases occurring on and after July 1, 1986, and before
- 35 July 1, 1988, the average weekly wages are considered to be:
- 36 (1) not more than two hundred eighty-five dollars (\$285); and
- 37 (2) not less than seventy-five dollars (\$75).
- 38 (d) In computing compensation for temporary total disability,

1 temporary partial disability, and total permanent disability, with respect
2 to occupational diseases occurring on and after July 1, 1988, and before
3 July 1, 1989, the average weekly wages are considered to be:

- 4 (1) not more than three hundred eighty-four dollars (\$384); and
- 5 (2) not less than seventy-five dollars (\$75).

6 (e) In computing compensation for temporary total disability,
7 temporary partial disability, and total permanent disability, with respect
8 to occupational diseases occurring on and after July 1, 1989, and before
9 July 1, 1990, the average weekly wages are considered to be:

- 10 (1) not more than four hundred eleven dollars (\$411); and
- 11 (2) not less than seventy-five dollars (\$75).

12 (f) In computing compensation for temporary total disability,
13 temporary partial disability, and total permanent disability, with respect
14 to occupational diseases occurring on and after July 1, 1990, and before
15 July 1, 1991, the average weekly wages are considered to be:

- 16 (1) not more than four hundred forty-one dollars (\$441); and
- 17 (2) not less than seventy-five dollars (\$75).

18 (g) In computing compensation for temporary total disability,
19 temporary partial disability, and total permanent disability, with respect
20 to occupational diseases occurring on and after July 1, 1991, and before
21 July 1, 1992, the average weekly wages are considered to be:

- 22 (1) not more than four hundred ninety-two dollars (\$492); and
- 23 (2) not less than seventy-five dollars (\$75).

24 (h) In computing compensation for temporary total disability,
25 temporary partial disability, and total permanent disability, with respect
26 to occupational diseases occurring on and after July 1, 1992, and before
27 July 1, 1993, the average weekly wages are considered to be:

- 28 (1) not more than five hundred forty dollars (\$540); and
- 29 (2) not less than seventy-five dollars (\$75).

30 (i) In computing compensation for temporary total disability,
31 temporary partial disability, and total permanent disability, with respect
32 to occupational diseases occurring on and after July 1, 1993, and before
33 July 1, 1994, the average weekly wages are considered to be:

- 34 (1) not more than five hundred ninety-one dollars (\$591); and
- 35 (2) not less than seventy-five dollars (\$75).

36 (j) In computing compensation for temporary total disability,
37 temporary partial disability and total permanent disability, with respect
38 to occupational diseases occurring on and after July 1, 1994, and before

- 1 July 1, 1997, the average weekly wages are considered to be:
- 2 (1) not more than six hundred forty-two dollars (\$642); and
- 3 (2) not less than seventy-five dollars (\$75).
- 4 (k) In computing compensation for temporary total disability,
- 5 temporary partial disability, and total permanent disability, the average
- 6 weekly wages are considered to be:
- 7 (1) with respect to occupational diseases occurring on and after
- 8 July 1, 1997, and before July 1, 1998:
- 9 (A) not more than six hundred seventy-two dollars (\$672); and
- 10 (B) not less than seventy-five dollars (\$75);
- 11 (2) with respect to occupational diseases occurring on and after
- 12 July 1, 1998, and before July 1, 1999:
- 13 (A) not more than seven hundred two dollars (\$702); and
- 14 (B) not less than seventy-five dollars (\$75);
- 15 (3) with respect to occupational diseases occurring on and after
- 16 July 1, 1999, and before July 1, 2000:
- 17 (A) not more than seven hundred thirty-two dollars (\$732);
- 18 and
- 19 (B) not less than seventy-five dollars (\$75);
- 20 (4) with respect to occupational diseases occurring on and after
- 21 July 1, 2000, and before July 1, 2001:
- 22 (A) not more than seven hundred sixty-two dollars (\$762); and
- 23 (B) not less than seventy-five dollars (\$75);
- 24 (5) with respect to ~~disablements~~ **occupational diseases** occurring
- 25 on and after July 1, 2001, and before July 1, 2002:
- 26 (A) not more than eight hundred twenty-two dollars (\$822);
- 27 and
- 28 (B) not less than seventy-five dollars (\$75); ~~and~~
- 29 (6) with respect to ~~disablements~~ **occupational diseases** occurring
- 30 on and after July 1, 2002, **and before July 1, 2003:**
- 31 (A) not more than eight hundred eighty-two dollars (\$882);
- 32 and
- 33 (B) not less than seventy-five dollars (\$75);
- 34 **(7) with respect to occupational diseases occurring on and**
- 35 **after July 1, 2003, and before July 1, 2004:**
- 36 **(A) not more than nine hundred forty-eight dollars (\$948);**
- 37 **and**
- 38 **(B) not less than two hundred six dollars (\$206); and**

(8) with respect to occupational diseases occurring on and after July 1, 2004:

(A) not more than one thousand fourteen dollars (\$1,014); and

(B) not less than two hundred six dollars (\$206).

(l) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:

(1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars (\$45,000) in any case;

(2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars (\$52,000) in any case;

(3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars (\$60,000) in any case;

(4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars (\$65,000) in any case;

(5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars (\$70,000) in any case;

(6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars (\$78,000) in any case; and

(7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars (\$83,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars (\$89,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars (\$95,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars (\$128,000) in any case.

(n) The maximum compensation with respect to disability or death

1 occurring on and after July 1, 1989, and before July 1, 1990, that shall
 2 be paid for occupational disease and the results thereof under this
 3 chapter or under any combination of its provisions may not exceed one
 4 hundred thirty-seven thousand dollars (\$137,000) in any case.

5 (o) The maximum compensation with respect to disability or death
 6 occurring on and after July 1, 1990, and before July 1, 1991, that shall
 7 be paid for occupational disease and the results thereof under this
 8 chapter or under any combination of its provisions may not exceed one
 9 hundred forty-seven thousand dollars (\$147,000) in any case.

10 (p) The maximum compensation with respect to disability or death
 11 occurring on and after July 1, 1991, and before July 1, 1992, that shall
 12 be paid for occupational disease and the results thereof under this
 13 chapter or under any combination of the provisions of this chapter may
 14 not exceed one hundred sixty-four thousand dollars (\$164,000) in any
 15 case.

16 (q) The maximum compensation with respect to disability or death
 17 occurring on and after July 1, 1992, and before July 1, 1993, that shall
 18 be paid for occupational disease and the results thereof under this
 19 chapter or under any combination of the provisions of this chapter may
 20 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

21 (r) The maximum compensation with respect to disability or death
 22 occurring on and after July 1, 1993, and before July 1, 1994, that shall
 23 be paid for occupational disease and the results thereof under this
 24 chapter or under any combination of the provisions of this chapter may
 25 not exceed one hundred ninety-seven thousand dollars (\$197,000) in
 26 any case.

27 (s) The maximum compensation with respect to disability or death
 28 occurring on and after July 1, 1994, and before July 1, 1997, that shall
 29 be paid for occupational disease and the results thereof under this
 30 chapter or under any combination of the provisions of this chapter may
 31 not exceed two hundred fourteen thousand dollars (\$214,000) in any
 32 case.

33 (t) The maximum compensation that shall be paid for occupational
 34 disease and the results of an occupational disease under this chapter or
 35 under any combination of the provisions of this chapter, **subject to**
 36 **section 21 of this chapter**, may not exceed the following amounts in
 37 any case:

38 (1) With respect to disability or death occurring on and after July

1 1, 1997, and before July 1, 1998, two hundred twenty-four
 2 thousand dollars (\$224,000).

3 (2) With respect to disability or death occurring on and after July
 4 1, 1998, and before July 1, 1999, two hundred thirty-four
 5 thousand dollars (\$234,000).

6 (3) With respect to disability or death occurring on and after July
 7 1, 1999, and before July 1, 2000, two hundred forty-four thousand
 8 dollars (\$244,000).

9 (4) With respect to disability or death occurring on and after July
 10 1, 2000, and before July 1, 2001, two hundred fifty-four thousand
 11 dollars (\$254,000).

12 (5) With respect to disability or death occurring on and after July
 13 1, 2001, and before July 1, 2002, two hundred seventy-four
 14 thousand dollars (\$274,000).

15 (6) With respect to disability or death occurring on and after July
 16 1, 2002, **and before July 1, 2003**, two hundred ninety-four
 17 thousand dollars (\$294,000).

18 **(7) With respect to a disability or death occurring on or after**
 19 **July 1, 2003, the total of one hundred twenty-five (125) weeks**
 20 **of temporary total disability compensation plus one hundred**
 21 **(100) degrees of permanent partial impairment, both as set**
 22 **forth in section 16 of this chapter.**

23 (u) For all disabilities occurring before July 1, 1985, "average
 24 weekly wages" shall mean the earnings of the injured employee in the
 25 employment in which the employee was working at the time of the last
 26 exposure during the period of fifty-two (52) weeks immediately
 27 preceding the last day of the last exposure divided by fifty-two (52). If
 28 the employee lost seven (7) or more calendar days during the period,
 29 although not in the same week, then the earnings for the remainder of
 30 the fifty-two (52) weeks shall be divided by the number of weeks and
 31 parts thereof remaining after the time lost has been deducted. Where
 32 the employment prior to the last day of the last exposure extended over
 33 a period of less than fifty-two (52) weeks, the method of dividing the
 34 earnings during that period by the number of weeks and parts thereof
 35 during which the employee earned wages shall be followed if results
 36 just and fair to both parties will be obtained. Where by reason of the
 37 shortness of the time during which the employee has been in the
 38 employment of the employer or of the casual nature or terms of the

1 employment it is impracticable to compute the average weekly wages
 2 as above defined, regard shall be had to the average weekly amount
 3 which, during the fifty-two (52) weeks previous to the last day of the
 4 last exposure, was being earned by a person in the same grade
 5 employed at the same work by the same employer, or if there is no
 6 person so employed, by a person in the same grade employed in that
 7 same class of employment in the same district. Whenever allowances
 8 of any character are made to an employee in lieu of wages or a
 9 specified part of the wage contract, they shall be deemed a part of the
 10 employee's earnings.

11 (v) For all disabilities occurring on and after July 1, 1985, "average
 12 weekly wages" means the earnings of the injured employee during the
 13 period of fifty-two (52) weeks immediately preceding the disability
 14 divided by fifty-two (52). If the employee lost seven (7) or more
 15 calendar days during the period, although not in the same week, then
 16 the earnings for the remainder of the fifty-two (52) weeks shall be
 17 divided by the number of weeks and parts of weeks remaining after the
 18 time lost has been deducted. If employment before the date of disability
 19 extended over a period of less than fifty-two (52) weeks, the method of
 20 dividing the earnings during that period by the number of weeks and
 21 parts of weeks during which the employee earned wages shall be
 22 followed if results just and fair to both parties will be obtained. If by
 23 reason of the shortness of the time during which the employee has been
 24 in the employment of the employer or of the casual nature or terms of
 25 the employment it is impracticable to compute the average weekly
 26 wages for the employee, the employee's average weekly wages shall be
 27 considered to be the average weekly amount that, during the fifty-two
 28 (52) weeks before the date of disability, was being earned by a person
 29 in the same grade employed at the same work by the same employer or,
 30 if there is no person so employed, by a person in the same grade
 31 employed in that same class of employment in the same district.
 32 Whenever allowances of any character are made to an employee
 33 instead of wages or a specified part of the wage contract, they shall be
 34 considered a part of the employee's earnings.

35 (w) **In computing the average weekly wage for an employee**
 36 **who:**

37 **(1) has sustained a compensable occupational disease;**

38 **(2) has returned to work; and**

1 **(3) sustains a later period of disability due to that**
 2 **occupational disease after June 30, 2003;**
 3 **the average weekly wage for the later period of disability shall be**
 4 **determined based on the average weekly wage at the time of that**
 5 **disability, subject to the maximum average weekly wage in effect**
 6 **as of the last day worked, computed as set forth in this section.**

7 (x) The provisions of this article may not be construed to result in
 8 an award of benefits in which the number of weeks paid or to be paid
 9 for temporary total disability, temporary partial disability, or permanent
 10 total disability benefits combined exceeds five hundred (500) weeks.
 11 This section shall not be construed to prevent a person from applying
 12 for an award under IC 22-3-3-13. However, in case of permanent total
 13 disability resulting from a disablement occurring on or after January 1,
 14 1998, the minimum total benefit shall not be less than seventy-five
 15 thousand dollars (\$75,000).

16 (y) **Each payment of compensation due under this section shall**
 17 **be reduced or increased as provided in section 21 of this chapter.**

18 SECTION 35. IC 22-3-7-20 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) After
 20 disablement and during the period of claimed resulting disability or
 21 impairment, the employee, if so requested by the employee's employer
 22 or ordered by the worker's compensation board, shall submit to an
 23 examination at reasonable times and places by a duly qualified
 24 physician or surgeon designated and paid by the employer or by order
 25 of the board. The employee shall have the right to have present at any
 26 such examination any duly qualified physician or surgeon provided and
 27 paid for by the employee. No fact communicated to or otherwise
 28 learned by any physician or surgeon who may have attended or
 29 examined the employee, or who may have been present at any
 30 examination, shall be privileged either in the hearings provided for in
 31 this chapter, or in any action at law brought to recover damages against
 32 any employer who is subject to the compensation provisions of this
 33 chapter. If the employee refuses to submit to, or in any way obstructs
 34 the examinations, the employee's right to compensation and right to
 35 take or prosecute any proceedings under this chapter shall be
 36 suspended until the refusal or obstruction ceases. No compensation
 37 shall at any time be payable for the period of suspension unless in the
 38 opinion of the board, the circumstances justified the refusal or

1 obstruction. The employee must be served with a notice setting forth
2 the consequences of the refusal under this subsection. The notice must
3 be in a form prescribed by the worker's compensation board.

4 (b) Any employer requesting an examination of any employee
5 residing within Indiana shall pay, in advance of the time fixed for the
6 examination, sufficient money to defray the necessary expenses of
7 travel by the most convenient means to and from the place of
8 examination, and the cost of meals and lodging necessary during the
9 travel. If the method of travel is by automobile, the mileage rate to be
10 paid by the employer shall be the rate as is then currently being paid by
11 the state to its employees under the state travel policies and procedures
12 established by the department of administration and approved by the
13 state budget agency. If the examination or travel to or from the place of
14 examination causes any loss of working time on the part of the
15 employee, the employer shall reimburse the employee for the loss of
16 wages upon the basis of such employee's average daily wage.

17 (c) When any employee injured in Indiana moves outside Indiana,
18 the travel expense and the cost of meals and lodging necessary during
19 the travel, payable under this section, shall be paid from the point in
20 Indiana nearest to the employee's then residence to the place of
21 examination. No travel and other expense shall be paid for any travel
22 and other expense required outside Indiana.

23 (d) A duly qualified physician or surgeon provided and paid for by
24 the employee may be present at an examination, if the employee so
25 desires. In all cases, where the examination is made by a physician or
26 surgeon engaged by the employer and the disabled or injured employee
27 has no physician or surgeon present at the examination, it shall be the
28 duty of the physician or surgeon making the examination to deliver to
29 the injured employee, or the employee's representative, a statement in
30 writing of the conditions evidenced by such examination. The
31 statement shall disclose all facts that are reported by the physician or
32 surgeon to the employer. This statement shall be furnished to the
33 employee or the employee's representative as soon as practicable, but
34 not later than thirty (30) days before the time the case is set for hearing.
35 The statement may be submitted by either party as evidence by that
36 physician or surgeon at a hearing before the worker's compensation
37 board if the statement meets the requirements of subsection (f). If the
38 physician or surgeon fails or refuses to furnish the employee or the

1 employee's representative with such statement thirty (30) days before
2 the hearing, then the statement may not be submitted as evidence, and
3 the physician shall not be permitted to testify before the worker's
4 compensation board as to any facts learned in the examination. All of
5 the requirements of this subsection apply to all subsequent
6 examinations requested by the employer.

7 (e) In all cases where an examination of an employee is made by a
8 physician or surgeon engaged by the employee, and the employer has
9 no physician or surgeon present at such examination, it shall be the
10 duty of the physician or surgeon making the examination to deliver to
11 the employer or the employer's representative a statement in writing of
12 the conditions evidenced by such examination. The statement shall
13 disclose all the facts that are reported by such physician or surgeon to
14 the employee. The statement shall be furnished to the employer or the
15 employer's representative as soon as practicable, but not later than
16 thirty (30) days before the time the case is set for hearing. The
17 statement may be submitted by either party as evidence by that
18 physician or surgeon at a hearing before the worker's compensation
19 board if the statement meets the requirements of subsection (f). If the
20 physician or surgeon fails or refuses to furnish the employer or the
21 employer's representative with such statement thirty (30) days before
22 the hearing, then the statement may not be submitted as evidence, and
23 the physician or surgeon shall not be permitted to testify before the
24 worker's compensation board as to any facts learned in such
25 examination. All of the requirements of this subsection apply to all
26 subsequent examinations made by a physician or surgeon engaged by
27 the employee.

28 (f) **A representative of the employer or the employer's insurance**
29 **carrier, including a case manager or a rehabilitation nurse, may**
30 **not attend or be present during the employee's medical treatment**
31 **unless the representative complies with all of the following**
32 **provisions:**

33 (1) **Both the employee and the treating medical personnel**
34 **provide express written consent.**

35 (2) **The written consent described in subdivision (1) is**
36 **required before the representative may attend or be present**
37 **during the employee's medical treatment.**

38 (3) **The representative may not jeopardize or threaten to**

1 **jeopardize the payment of the employee's compensation under**
 2 **this article because the employee fails or refuses to complete**
 3 **the written consent described in subdivision (1).**

4 **(4) The representative may not cause the employee to believe**
 5 **that the employee's compensation under this article may be**
 6 **terminated or reduced because the employee fails or refuses**
 7 **to complete the written consent described in subdivision (1).**

8 **(5) The representative shall obtain the written consents**
 9 **required by subdivision (1) on forms prescribed by the**
 10 **worker's compensation board.**

11 (g) All statements of physicians or surgeons required by this section,
 12 whether those engaged by employee or employer, shall contain the
 13 following information:

14 (1) The history of the injury, or claimed injury, as given by the
 15 patient.

16 (2) The diagnosis of the physician or surgeon concerning the
 17 patient's physical or mental condition.

18 (3) The opinion of the physician or surgeon concerning the causal
 19 relationship, if any, between the injury and the patient's physical
 20 or mental condition, including the physician's or surgeon's reasons
 21 for the opinion.

22 (4) The opinion of the physician or surgeon concerning whether
 23 the injury or claimed injury resulted in a disability or impairment
 24 and, if so, the opinion of the physician or surgeon concerning the
 25 extent of the disability or impairment and the reasons for the
 26 opinion.

27 (5) The original signature of the physician or surgeon.

28 Notwithstanding any hearsay objection, the worker's compensation
 29 board shall admit into evidence a statement that meets the requirements
 30 of this subsection unless the statement is ruled inadmissible on other
 31 grounds.

32 ~~(g)~~ **(h)** Delivery of any statement required by this section may be
 33 made to the attorney or agent of the employer or employee and such an
 34 action shall be construed as delivery to the employer or employee.

35 ~~(h)~~ **(i)** Any party may object to a statement on the basis that the
 36 statement does not meet the requirements of subsection (e). The
 37 objecting party must give written notice to the party providing the
 38 statement and specify the basis for the objection. Notice of the

objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection ~~(f)~~: **(g)**.

~~(f)~~ **(j)** The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a hearing, the board orders an autopsy and the autopsy is refused by the surviving spouse or next of kin, in this event any claim for compensation on account of the death shall be suspended and abated during the refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in discharge of the coroner's duties, shall be held in any case by any person without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity shall be given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by the autopsy shall be suspended on motion duly made to the board.

SECTION 36. IC 22-3-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) No compensation is allowed for any condition of physical or mental ill-being, disability, disablement, or death for which compensation is recoverable on account of accidental injury under ~~chapters 2 through 6 of this article~~: **IC 22-3-2 through IC 22-3-6**.

(b) ~~No~~ **Each payment of compensation is allowed under sections 16 and 19 of this chapter shall be reduced by twenty percent (20%)** for any occupational disease or death ~~knowingly self-inflicted by the employee or due to:~~

~~his~~ **(1)** intoxication;

~~his~~ **(2)** commission of an offense;

~~his~~ **(3)** knowing **and willful** failure to use a safety appliance;

~~his~~ **(4)** knowing **and willful** failure to obey a reasonable written or printed rule of the employer which has been posted in a

1 conspicuous position in the place of work; or
 2 ~~his~~ **(5) knowing and willful** failure to perform any statutory duty.
 3 ~~The burden of proof is on the defendant.~~

4 **(c) No compensation is allowed for an employee's knowing and**
 5 **willful self-inflicted occupational disease or death.**

6 **(d) Each payment of compensation allowed under sections 16**
 7 **and 19 of this chapter shall be increased by thirty percent (30%)**
 8 **for a disease or death due to the employer's intentional failure to**
 9 **comply with a statute or an administrative regulation regarding**
 10 **safety methods or installation or maintenance of safety appliances.**

11 **(e) The defendant has the burden of proof under subsections (b)**
 12 **and (c).**

13 SECTION 37. IC 22-3-7-24 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) The worker's
 15 compensation board may make rules not inconsistent with this chapter
 16 for carrying out the provisions of this chapter. Processes and
 17 procedures under this chapter shall be as summary and simple as
 18 reasonably may be. The board, or any member thereof, shall have the
 19 power, for the purpose of this chapter, to subpoena witnesses,
 20 administer or cause to have administered oaths, and to examine or
 21 cause to have examined such parts of the books and records of the
 22 parties to a proceeding as relate to questions in dispute. The county
 23 sheriff shall serve all subpoenas of the board **and magistrates**
 24 **appointed under IC 22-3-1-1** and shall receive the same fees as
 25 provided by law for like service in civil actions. Each witness who
 26 appears in obedience to such subpoena of the board shall receive for
 27 attendance the fees and mileage for witnesses in civil cases in the
 28 courts. The circuit or superior court shall, on application of the board
 29 or any member thereof, enforce by proper proceedings the attendance
 30 and testimony of witnesses and the production and examination of
 31 books, papers, and records.

32 (b) The fees of attorneys and physicians and charges of nurses and
 33 hospitals for services under this chapter shall be subject to the approval
 34 of the worker's compensation board. When any claimant for
 35 compensation is represented by an attorney in the prosecution of ~~his~~
 36 **the claimant's** claim, the board shall fix and state in the award, if
 37 compensation be awarded, the amount of the claimant's attorney's fees.
 38 The fee so fixed shall be binding upon both the claimant and ~~his~~ **the**

1 **claimant's** attorney, and the employer shall pay to the attorney, out of
 2 the award, the fee so fixed, and the receipt of the attorney therefor shall
 3 fully acquit the employer for an equal portion of the award.

4 (c) Whenever the worker's compensation board shall determine
 5 upon hearing of a claim that the employer has acted in bad faith in
 6 adjusting and settling said award, or whenever the board shall
 7 determine upon hearing of a claim that the employer has not pursued
 8 the settlement of said claim with diligence, then the board shall, if
 9 compensation be awarded, fix the amount of the claimant's attorney's
 10 fees and such attorney's fees shall be paid to the attorney and shall not
 11 be charged against the award to the claimant. Such fees as are fixed and
 12 awarded on account of a lack of diligence or because of bad faith on the
 13 part of the employer shall not be less than one hundred fifty dollars
 14 (\$150).

15 (d) The worker's compensation board may withhold the approval of
 16 the fees of the attending physician in any case until ~~he shall file the~~
 17 **attending physician files** a report with the board on the form
 18 prescribed by such board.

19 SECTION 38. IC 22-3-7-27, AS AMENDED BY P.L.235-1999,
 20 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2003]: Sec. 27. (a) If the employer and the employee or the
 22 employee's dependents disagree in regard to the compensation payable
 23 under this chapter, or, if they have reached such an agreement, which
 24 has been signed by them, filed with and approved by the worker's
 25 compensation board, and afterward disagree as to the continuance of
 26 payments under such agreement, or as to the period for which payments
 27 shall be made, or as to the amount to be paid, because of a change in
 28 conditions since the making of such agreement, either party may then
 29 make an application to the board for the determination of the matters
 30 in dispute. When compensation which is payable in accordance with an
 31 award or by agreement approved by the board is ordered paid in a lump
 32 sum by the board, no review shall be had as in this subsection
 33 mentioned.

34 (b) The application making claim for compensation filed with the
 35 worker's compensation board shall state the following:

36 (1) The approximate date of the last day of the last exposure and
 37 the approximate date of the disablement.

38 (2) The general nature and character of the illness or disease

1 claimed.

2 (3) The name and address of the employer by whom employed on
3 the last day of the last exposure, and if employed by any other
4 employer after such last exposure and before disablement, the
5 name and address of such other employer or employers.

6 (4) In case of death, the date and place of death.

7 (5) Amendments to applications making claim for compensation
8 which relate to the same disablement or disablement resulting in
9 death originally claimed upon may be allowed by the board in its
10 discretion, and, in the exercise of such discretion, it may, in
11 proper cases, order a trial de novo. Such amendment shall relate
12 back to the date of the filing of the original application so
13 amended.

14 (c) Upon the filing of such application, the board shall set the date
15 of hearing, which shall be as early as practicable, and shall notify the
16 parties, in the manner prescribed by the board, of the time and place of
17 hearing. The hearing of all claims for compensation on account of
18 occupational disease shall be held in the county in which the last
19 exposure occurred or in any adjoining county, except when the parties
20 consent to a hearing elsewhere. Claims assigned to an individual board
21 member that are considered to be of an emergency nature by that board
22 member, may be heard in any county within the board member's
23 jurisdiction.

24 (d) The board by any or all of its members **or by magistrates**
25 **appointed under IC 22-3-1-1** shall hear the parties at issue, their
26 representatives, and witnesses, and shall determine the dispute in a
27 summary manner. The award shall be filed with the record of
28 proceedings, and a copy thereof shall immediately be sent by registered
29 mail to each of the parties in dispute.

30 (e) If an application for review is made to the board within thirty
31 (30) days from the date of the award made by less than all the
32 members, the full board, if the first hearing was not held before the full
33 board, shall review the evidence, or, if deemed advisable, hear the
34 parties at issue, their representatives, and witnesses as soon as
35 practicable, and shall make an award and file the same with the finding
36 of the facts on which it is based and send a copy thereof to each of the
37 parties in dispute, in like manner as specified in subsection (d).

38 (f) An award of the board by less than all of the members as

1 provided in this section, if not reviewed as provided in this section,
2 shall be final and conclusive. An award by the full board shall be
3 conclusive and binding unless either party to the dispute, within thirty
4 (30) days after receiving a copy of such award, appeals to the court of
5 appeals under the same terms and conditions as govern appeals in
6 ordinary civil actions. The court of appeals shall have jurisdiction to
7 review all questions of law and of fact. The board, of its own motion,
8 may certify questions of law to the court of appeals for its decision and
9 determination. An assignment of errors that the award of the full board
10 is contrary to law shall be sufficient to present both the sufficiency of
11 the facts found to sustain the award and the sufficiency of the evidence
12 to sustain the finding of facts. All such appeals and certified questions
13 of law shall be submitted upon the date filed in the court of appeals,
14 shall be advanced upon the docket of the court, and shall be determined
15 at the earliest practicable date, without any extensions of time for filing
16 briefs. An award of the full board affirmed on appeal, by the employer,
17 shall be increased thereby five percent (5%), and by order of the court
18 may be increased ten percent (10%).

19 (g) Upon order of the worker's compensation board made after five
20 (5) days notice is given to the opposite party, any party in interest may
21 file in the circuit or superior court of the county in which the
22 disablement occurred a certified copy of the memorandum of
23 agreement, approved by the board, or of an order or decision of the
24 board, or of an award of the full board unappealed from, or of an award
25 of the full board affirmed upon an appeal, whereupon the court shall
26 render judgment in accordance therewith and notify the parties. Such
27 judgment shall have the same effect and all proceedings in relation
28 thereto shall thereafter be the same as though such judgment has been
29 rendered in a suit duly heard and determined by the court. Any such
30 judgment of such circuit or superior court, unappealed from or affirmed
31 on appeal or modified in obedience to the mandate of the court of
32 appeals, shall be modified to conform to any decision of the industrial
33 board ending, diminishing, or increasing any weekly payment under the
34 provisions of subsection (i) upon the presentation to it of a certified
35 copy of such decision.

36 (h) In all proceedings before the worker's compensation board or in
37 a court under the compensation provisions of this chapter, the costs
38 shall be awarded and taxed as provided by law in ordinary civil actions

1 in the circuit court. **Prejudgment interest shall be awarded at a rate**
 2 **of ten percent (10%) per year, accruing from the date of filing of**
 3 **the application for adjustment of claim as determined under**
 4 **subsection (a).**

5 (i) The power and jurisdiction of the worker's compensation board
 6 over each case shall be continuing, and, from time to time, it may, upon
 7 its own motion or upon the application of either party on account of a
 8 change in conditions, make such modification or change in the award
 9 ending, lessening, continuing, or extending the payments previously
 10 awarded, either by agreement or upon hearing, as it may deem just,
 11 subject to the maximum and minimum provided for in this chapter.
 12 When compensation which is payable in accordance with an award or
 13 settlement contract approved by the board is ordered paid in a lump
 14 sum by the board, no review shall be had as in this subsection
 15 mentioned. Upon making any such change, the board shall immediately
 16 send to each of the parties a copy of the modified award. No such
 17 modification shall affect the previous award as to any money paid
 18 thereunder. The board shall not **have jurisdiction to** make any ~~such~~
 19 modification upon its own motion ~~nor shall or upon~~ any application
 20 ~~therefor be~~ filed by either party after the expiration of two (2) years
 21 from the ~~last day for which compensation was paid under the original~~
 22 **date of the most recent** award made either by agreement or upon
 23 hearing. ~~except that applications for increased permanent partial~~
 24 ~~impairment are barred unless filed within one (1) year from the last day~~
 25 ~~for which compensation was paid.~~ The board may at any time correct
 26 any clerical error in any finding or award.

27 (j) The board or any member thereof may, upon the application of
 28 either party or upon its own motion, appoint a disinterested and duly
 29 qualified physician or surgeon to make any necessary medical
 30 examination of the employee and to testify in respect thereto. Such
 31 physician or surgeon shall be allowed traveling expenses and a
 32 reasonable fee, to be fixed by the board. The fees and expenses of such
 33 physician or surgeon shall be paid by the state only on special order of
 34 the board or a member thereof.

35 (k) The board or any member thereof may, upon the application of
 36 either party or upon its own motion, appoint a disinterested and duly
 37 qualified industrial hygienist, industrial engineer, industrial physician,
 38 or chemist to make any necessary investigation of the occupation in

1 which the employee alleges that ~~he~~ **the employee** was last exposed to
 2 the hazards of the occupational disease claimed upon, and testify with
 3 respect to the occupational disease health hazards found by such person
 4 or persons to exist in such occupation. Such person or persons shall be
 5 allowed traveling expenses and a reasonable fee, to be fixed by the
 6 board. The fees and expenses of such persons shall be paid by the state,
 7 only on special order of the board or a member thereof.

8 (l) Whenever any claimant misconceives the claimant's remedy and
 9 files an application for adjustment of a claim under IC 22-3-2 through
 10 IC 22-3-6 and it is subsequently discovered, at any time before the final
 11 disposition of such cause, that the claim for injury or death which was
 12 the basis for such application should properly have been made under
 13 the provisions of this chapter, then the application so filed under
 14 IC 22-3-2 through IC 22-3-6 may be amended in form or substance or
 15 both to assert a claim for such disability or death under the provisions
 16 of this chapter, and it shall be deemed to have been so filed as amended
 17 on the date of the original filing thereof, and such compensation may
 18 be awarded as is warranted by the whole evidence pursuant to the
 19 provisions of this chapter. When such amendment is submitted, further
 20 or additional evidence may be heard by the worker's compensation
 21 board when deemed necessary. Nothing in this section contained shall
 22 be construed to be or permit a waiver of any of the provisions of this
 23 chapter with reference to notice or time for filing a claim, but notice of
 24 filing of a claim, if given or done, shall be deemed to be a notice or
 25 filing of a claim under the provisions of this chapter if given or done
 26 within the time required in this chapter.

27 SECTION 39. IC 22-3-7-34.5, AS AMENDED BY P.L.202-2001,
 28 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2003]: Sec. 34.5. (a) As used in this section, "independent
 30 contractor" refers to a person described in section 9(b)(5) of this
 31 chapter.

32 (b) As used in this section, "person" means an individual, a
 33 proprietorship, a partnership, a joint venture, a firm, an association, a
 34 corporation, or other legal entity.

35 (c) An independent contractor who does not make an election under
 36 section 9(b)(2) of this chapter or section 9(b)(3) of this chapter is not
 37 subject to the compensation provisions of this chapter and must file a
 38 statement with the department of state revenue and obtain a certificate

1 of exemption.

2 (d) An independent contractor shall file with the department of state
3 revenue, in the form prescribed by the department of state revenue, a
4 statement containing the information required by IC 6-3-7-5.

5 (e) Together with the statement required in subsection (d), an
6 independent contractor shall file annually with the department
7 documentation in support of independent contractor status before being
8 granted a certificate of exemption. The independent contractor must
9 obtain clearance from the department of state revenue before issuance
10 of the certificate.

11 (f) An independent contractor shall pay a filing fee in the amount of
12 fifteen dollars (\$15) with the certificate filed under subsection (h). The
13 fees collected under this subsection shall be deposited in the worker's
14 compensation supplemental administrative fund. ~~and~~ **Thirty-four**
15 **percent (34%) of the money in the fund** shall be ~~used~~ **allocated** for
16 all expenses the board incurs **in administering this section. Sixty-six**
17 **percent (66%) of the money in the fund shall be allocated for the**
18 **enforcement of section 34.6 of this chapter, including the costs of**
19 **hiring additional staff required by the department of labor.**

20 (g) The worker's compensation board shall maintain a data base
21 consisting of certificates received under this section and on request
22 may verify that a certificate was filed.

23 (h) A certificate of exemption must be filed with the worker's
24 compensation board. The board shall indicate that the certificate has
25 been filed by stamping the certificate with the date of receipt and
26 returning a stamped copy to the person filing the certificate. A
27 certificate becomes effective as of midnight seven (7) business days
28 after the date file stamped by the worker's compensation board. The
29 board shall maintain a data base containing information required in
30 subsections (e) and (g).

31 (i) A person who contracts for services of another person not
32 covered by this chapter to perform work must secure a copy of a
33 stamped certificate of exemption filed under this section from the
34 person hired. A person may not require a person who has provided a
35 stamped certificate to have worker's compensation coverage. The
36 worker's compensation insurance carrier of a person who contracts with
37 an independent contractor shall accept a stamped certificate in the
38 same manner as a certificate of insurance.

(j) A stamped certificate filed under this section is binding on and holds harmless for all claims:

- (1) a person who contracts with an independent contractor after receiving a copy of the stamped certificate; and
- (2) the worker's compensation insurance carrier of the person who contracts with the independent contractor.

The independent contractor may not collect compensation under this chapter for an injury from a person or the person's worker's compensation carrier to whom the independent contractor has furnished a stamped certificate.

SECTION 40. IC 22-3-7-34.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 34.6. (a) As used in this section, "person" has the meaning set forth in section 34.5 of this chapter.**

(b) A person who does any of the following is subject to a civil penalty under this section:

- (1) Fails to obtain a copy of another person's stamped certificate of exemption as required under section 34.5(i) of this chapter before that person performs work on the person's behalf as an independent contractor.**
- (2) Fails to keep a copy of another person's stamped certificate of exemption on file as long as that person is performing work on the person's behalf as an independent contractor.**

(c) If the department of labor determines that a person has violated subsection (b)(1) or (b)(2), the department of labor may assess a civil penalty of not more than one thousand dollars (\$1,000) for each violation, plus any investigative costs incurred and documented by the department of labor. If the department of labor determines that a civil penalty is warranted, the department of labor shall consider the following factors in determining the amount of the penalty:

- (1) Whether the person performing work as an independent contractor meets the definition of an independent contractor under section 9(b)(5) of this chapter.**
- (2) Whether the violation was an isolated event or part of a pattern of violations.**

(d) All civil penalties collected under this section shall be

1 deposited in the occupational disease second injury fund created
2 under section 16.1 of this chapter.

3 (e) A civil penalty assessed under subsection (c):

4 (1) is subject to IC 4-21.5-2-6; and

5 (2) becomes effective without a proceeding under IC 4-21.5-3,
6 unless a person requests an administrative review not later
7 than thirty (30) days after the notice of assessment is given.

8 (f) The department of labor shall provide copies of its
9 determinations under this section to the worker's compensation
10 board and the department of state revenue.

11 SECTION 41. IC 22-4-2-12 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) **Except as**
13 **provided in subsections (b) and (c),** "base period" means the first four
14 (4) of the last five (5) completed calendar quarters immediately
15 preceding the first day of an individual's benefit period. ~~Provided,~~
16 However, ~~That~~ for a claim computed in accordance with IC ~~1971,~~
17 22-4-22, the base period shall be the base period as outlined in the
18 paying state's law.

19 (b) **Effective January 1, 2005, "base period" also includes, in the**
20 **case of an individual who does not have sufficient wages in the base**
21 **period as set forth in subsection (a), the last four (4) completed**
22 **calendar quarters immediately preceding the first day of the**
23 **benefit year of the individual if the period qualifies the individual**
24 **for benefits under this chapter. Wages that fall within the base**
25 **period of claims established under this subsection are not available**
26 **for reuse in qualifying for a subsequent benefit year.**

27 (c) **In the case of a combined wage claim under an arrangement**
28 **approved by the United States Secretary of Labor, the base period**
29 **is the period applicable under the unemployment compensation**
30 **law of the paying state.**

31 (d) **The department shall adopt rules under IC 4-22-2 to obtain**
32 **wage information if wage information for the most recent quarter**
33 **of the base period as set forth under subsection (b) is not available**
34 **to the department from regular quarterly reports of wage**
35 **information that is systemically accessible.**

36 SECTION 42. IC 22-4-2-12.5 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.5. (a)
38 Notwithstanding section 12 of this chapter, for an individual who

during the "base period" as defined in that section has received worker's compensation benefits under IC 22-3-3 for a period of fifty-two (52) weeks or less, and as a result has not earned sufficient wage credits to meet the requirements of IC 22-4-14-5, "base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the last day that the individual was able to work, as a result of the individual's injury.

(b) The provisions of section 12(b), 12(c), and 12(d) of this chapter apply beginning January 1, 2005.

SECTION 43. IC 22-4-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. "Valid claim" means a claim filed by an individual who has established qualifying wage credits and who is totally, partially, or part-totally unemployed. ~~Provided,~~ No individual in a benefit period may file a valid claim for a waiting period, **if applicable**, or benefit period rights with respect to any period subsequent to the expiration of such benefit period.

SECTION 44. IC 22-4-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. "Insured unemployment" means unemployment during a given week for which waiting period credit, **if applicable**, or benefits are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

SECTION 45. IC 22-4-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform the duties thereof, as additional pay, back pay, or for loss of employment, or any such

1 payments made in accordance with an agreement made and entered
2 into by an employer, a union, and the National Labor Relations Board.

3 (b) The term "wages" shall not include the following:

4 (1) That part of remuneration which, after remuneration equal to:

5 (A) seven thousand dollars (\$7,000), has been paid in a
6 calendar year to an individual by an employer or ~~his~~ **the**
7 **employer's** predecessor with respect to employment during
8 any calendar year ~~subsequent to beginning after~~ December
9 31, 1982, **and before January 1, 2004; and**

10 **(B) nine thousand dollars (\$9,000), has been paid in a**
11 **calendar year to an individual by an employer or the**
12 **employer's predecessor for employment during a calendar**
13 **year beginning after December 31, 2003;**

14 unless that part of the remuneration is subject to a tax under a
15 federal law imposing a tax against which credit may be taken for
16 contributions required to be paid into a state unemployment fund.
17 For the purposes of this subdivision, the term "employment" shall
18 include service constituting employment under any employment
19 security law of any state or of the federal government. However,
20 nothing in this subdivision shall be taken as an approval or
21 disapproval of any related federal legislation.

22 (2) The amount of any payment (including any amount paid by an
23 employer for insurance or annuities or into a fund to provide for
24 any such payment) made to, or on behalf of, an individual or any
25 of his dependents under a plan or system established by an
26 employer which makes provision generally for individuals
27 performing service for it (or for such individuals generally and
28 their dependents) or for a class or classes of such individuals (or
29 for a class or classes of such individuals and their dependents) on
30 account of:

31 (A) retirement;

32 (B) sickness or accident disability;

33 (C) medical or hospitalization expenses in connection with
34 sickness or accident disability; or

35 (D) death.

36 (3) The amount of any payment made by an employer to an
37 individual performing service for it (including any amount paid
38 by an employer for insurance or annuities or into a fund to

1 provide for any such payment) on account of retirement.

2 (4) The amount of any payment on account of sickness or accident
3 disability, or medical or hospitalization expenses in connection
4 with sickness or accident disability made by an employer to, or on
5 behalf of, an individual performing services for it and after the
6 expiration of six (6) calendar months following the last calendar
7 month in which the individual performed services for such
8 employer.

9 (5) The amount of any payment made by an employer to, or on
10 behalf of, an individual performing services for it or to his
11 beneficiary:

12 (A) from or to a trust exempt from tax under Section 401(a) of
13 the Internal Revenue Code at the time of such payment unless
14 such payment is made to an individual performing services for
15 the trust as remuneration for such services and not as a
16 beneficiary of the trust; or

17 (B) under or to an annuity plan which, at the time of such
18 payments, meets the requirements of Section 401(a)(3),
19 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue
20 Code.

21 (6) Remuneration paid in any medium other than cash to an
22 individual for service not in the course of the employer's trade or
23 business.

24 (7) The amount of any payment (other than vacation or sick pay)
25 made to an individual after the month in which he attains the age
26 of sixty-five (65) if he did not perform services for the employer
27 in the period for which such payment is made.

28 (8) The payment by an employer (without deduction from the
29 remuneration of the employee) of the tax imposed upon an
30 employee under Sections 3101 et seq. of the Internal Revenue
31 Code (Federal Insurance Contributions Act).

32 SECTION 46. IC 22-4-4-3, AS AMENDED BY P.L.30-2000,
33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2003]: Sec. 3. (a) For calendar quarters beginning on and after
35 April 1, 1979, and before April 1, 1984, "wage credits" means
36 remuneration paid for employment by an employer to an individual.
37 Wage credits may not exceed three thousand six hundred sixty-six
38 dollars (\$3,666) and may not include payments specified in section

1 2(b) of this chapter.

2 (b) For calendar quarters beginning on and after April 1, 1984, and
3 before April 1, 1985, "wage credits" means remuneration paid for
4 employment by an employer to an individual. Wage credits may not
5 exceed three thousand nine hundred twenty-six dollars (\$3,926) and
6 may not include payments specified in section 2(b) of this chapter.

7 (c) For calendar quarters beginning on and after April 1, 1985, and
8 before January 1, 1991, "wage credits" means remuneration paid for
9 employment by an employer to an individual. Wage credits may not
10 exceed four thousand one hundred eighty-six dollars (\$4,186) and may
11 not include payments specified in section 2(b) of this chapter.

12 (d) For calendar quarters beginning on and after January 1, 1991,
13 and before July 1, 1995, "wage credits" means remuneration paid for
14 employment by an employer to an individual. Wage credits may not
15 exceed four thousand eight hundred ten dollars (\$4,810) and may not
16 include payments specified in section 2(b) of this chapter.

17 (e) For calendar quarters beginning on and after July 1, 1995, and
18 before July 1, 1997, "wage credits" means remuneration paid for
19 employment by an employer to an individual and remuneration
20 received as tips or gratuities in accordance with Sections 3102 and
21 3301 et seq. of the Internal Revenue Code. Wage credits may not
22 exceed five thousand dollars (\$5,000) and may not include payments
23 specified in section 2(b) of this chapter.

24 (f) For calendar quarters beginning on and after July 1, 1997, and
25 before July 1, 1998, "wage credits" means remuneration paid for
26 employment by an employer to an individual and remuneration
27 received as tips or gratuities in accordance with Sections 3102 and
28 3301 et seq. of the Internal Revenue Code. Wage credits may not
29 exceed five thousand four hundred dollars (\$5,400) and may not
30 include payments specified in section 2(b) of this chapter.

31 (g) For calendar quarters beginning on and after July 1, 1998, and
32 before July 1, 1999, "wage credits" means remuneration paid for
33 employment by an employer to an individual and remuneration
34 received as tips or gratuities in accordance with Sections 3102 and
35 3301 et seq. of the Internal Revenue Code. Wage credits may not
36 exceed five thousand six hundred dollars (\$5,600) and may not include
37 payments that are excluded from the definition of wages under section
38 2(b) of this chapter.

1 (h) For calendar quarters beginning on and after July 1, 1999, and
2 before July 1, 2000, "wage credits" means remuneration paid for
3 employment by an employer to an individual and remuneration
4 received as tips or gratuities in accordance with Sections 3102 and
5 3301 et seq. of the Internal Revenue Code. Wage credits may not
6 exceed five thousand eight hundred dollars (\$5,800) and may not
7 include payments that are excluded from the definition of wages under
8 section 2(b) of this chapter.

9 (i) For calendar quarters beginning on and after July 1, 2000, and
10 before July 1, 2001, "wage credits" means remuneration paid for
11 employment by an employer to an individual and remuneration
12 received as tips or gratuities in accordance with Sections 3102 and
13 3301 et seq. of the Internal Revenue Code. Wage credits may not
14 exceed six thousand seven hundred dollars (\$6,700) and may not
15 include payments that are excluded from the definition of wages under
16 section 2(b) of this chapter.

17 (j) For calendar quarters beginning on and after July 1, 2001, and
18 before July 1, 2002, "wage credits" means remuneration paid for
19 employment by an employer to an individual and remuneration
20 received as tips or gratuities in accordance with Sections 3102 and
21 3301 et seq. of the Internal Revenue Code. Wage credits may not
22 exceed seven thousand three hundred dollars (\$7,300) and may not
23 include payments that are excluded from the definition of wages under
24 section 2(b) of this chapter.

25 (k) For calendar quarters beginning on and after July 1, 2002, **and**
26 **before July 1, 2003**, "wage credits" means remuneration paid for
27 employment by an employer to an individual and remuneration
28 received as tips or gratuities in accordance with Sections 3102 and
29 3301 et seq. of the Internal Revenue Code. Wage credits may not
30 exceed seven thousand nine hundred dollars (\$7,900) and may not
31 include payments that are excluded from the definition of wages under
32 section 2(b) of this chapter.

33 **(l) For calendar quarters beginning on and after July 1, 2003,**
34 **and before July 1, 2004, "wage credits" means remuneration paid**
35 **for employment by an employer to an individual and remuneration**
36 **received as tips or gratuities in accordance with Sections 3102 and**
37 **3301 et seq. of the Internal Revenue Code. Wage credits may not**
38 **exceed eight thousand four hundred thirty-three dollars (\$8,433)**

1 and may not include payments that are excluded from the
2 definition of wages under section 2(b) of this chapter.

3 (m) For calendar quarters beginning on and after July 1, 2004,
4 and before July 1, 2005, "wage credits" means remuneration paid
5 for employment by an employer to an individual and remuneration
6 received as tips or gratuities in accordance with Sections 3102 and
7 3301 et seq. of the Internal Revenue Code. Wage credits may not
8 exceed eight thousand nine hundred sixty-six dollars (\$8,966) and
9 may not include payments that are excluded from the definition of
10 wages under section 2(b) of this chapter.

11 (n) For calendar quarters beginning on and after July 1, 2005,
12 "wage credits" means remuneration paid for employment by an
13 employer to an individual and remuneration received as tips or
14 gratuities in accordance with Sections 3102 and 3301 et seq. of the
15 Internal Revenue Code. Wage credits may not exceed nine
16 thousand five hundred dollars (\$9,500) and may not include
17 payments that are excluded from the definition of wages under
18 section 2(b) of this chapter.

19 SECTION 47. IC 22-4-10.5-7, AS ADDED BY P.L.290-2001,
20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2003]: Sec. 7. (a) **After making the deposit required by**
22 **subsection (b),** the department shall deposit skills 2016 training
23 assessments paid to the department under this chapter in the skills 2016
24 training fund established by IC 22-4-24.5-1.

25 (b) **After June 30, 2003, unless the board approves a lesser**
26 **amount, the department annually shall deposit the first four**
27 **hundred fifty thousand dollars (\$450,000) in skills 2016 training**
28 **assessments paid to the department under this chapter in the**
29 **special employment and training services fund established by**
30 **IC 22-4-25-1 for the training and counseling assistance described**
31 **in IC 22-4-25-1(f).**

32 SECTION 48. IC 22-4-14-4 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) **This subsection**
34 **applies before January 1, 2005.** As a condition precedent to the
35 payment of benefits to an individual with respect to any week such
36 individual shall be required to serve a waiting period of one (1) week
37 in which he has been totally, partially or part-totally unemployed and
38 with respect to which ~~he~~ **the individual** has received no benefits, but

during which ~~he~~ **the individual** was eligible for benefits in all other respects and was not otherwise ineligible for benefits under any provisions of this article. Such waiting period shall be a week in the individual's benefit period and during such week such individual shall be physically and mentally able to work and available for work. ~~No~~ **An** individual in a benefit period may **not** file for waiting period or benefit period rights with respect to any subsequent period. ~~Provided,~~ However, ~~That~~ no waiting period shall be required as a prerequisite for drawing extended benefits.

(b) This subsection applies after December 31, 2004. An individual in a benefit period may not file for benefit period rights for any subsequent period.

SECTION 49. IC 22-4-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) **Except for benefits due under IC 22-4-15-3.5**, for weeks of unemployment occurring after October 1, 1983, benefits may be paid to an individual on the basis of service performed in seasonal employment (as defined in IC 22-4-8-4) only if the claim is filed within the operating period of the seasonal employment. If the claim is filed outside the operating period of the seasonal employment, benefits may be paid on the basis of nonseasonal wages only.

(b) An employer shall file an application for a seasonal determination (as defined by IC 22-4-7-3) with the department of workforce development. A seasonal determination shall be made by the department within ninety (90) days after the filing of such an application. Until a seasonal determination by the department has been made in accordance with this section, no employer or worker may be considered seasonal.

(c) Any interested party may file an appeal regarding a seasonal determination within fifteen (15) calendar days after the determination by the department and obtain review of the determination in accordance with IC 22-4-32.

(d) Whenever an employer is determined to be a seasonal employer, the following provisions apply:

(1) The seasonal determination becomes effective the first day of the calendar quarter commencing after the date of the seasonal determination.

(2) The seasonal determination does not affect any benefit rights

1 of seasonal workers with respect to employment before the
2 effective date of the seasonal determination.

3 (e) If a seasonal employer, after the date of its seasonal
4 determination, operates its business or its seasonal operation during a
5 period or periods of twenty-six (26) weeks or more in a calendar year,
6 the employer shall be determined by the department to have lost its
7 seasonal status with respect to that business or operation effective at
8 the end of the then current calendar quarter. The redetermination shall
9 be reported in writing to the employer. Any interested party may file an
10 appeal within fifteen (15) calendar days after the redetermination by
11 the department and obtain review of the redetermination in accordance
12 with IC 22-4-32.

13 (f) Seasonal employers shall keep account of wages paid to seasonal
14 workers within the seasonal period as determined by the department
15 and shall report these wages on a special seasonal quarterly report form
16 provided by the department.

17 (g) The board shall adopt rules applicable to seasonal employers for
18 determining their normal seasonal period or periods.

19 SECTION 50. IC 22-4-15-1, AS AMENDED BY P.L.290-2001,
20 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2003]: Sec. 1. (a) With respect to benefit periods established
22 on and after July 6, 1980, an individual who has voluntarily left the
23 individual's most recent employment without good cause in connection
24 with the work or who was discharged from the individual's most recent
25 employment for just cause is ineligible for waiting period, **if**
26 **applicable**, or benefit rights for the week in which the disqualifying
27 separation occurred and until the individual has earned remuneration
28 in employment equal to or exceeding the weekly benefit amount of the
29 individual's claim in each of eight (8) weeks. If the qualification
30 amount has not been earned at the expiration of an individual's benefit
31 period, the unearned amount shall be carried forward to an extended
32 benefit period or to the benefit period of a subsequent claim.

33 (b) When it has been determined that an individual has been
34 separated from employment under disqualifying conditions as outlined
35 in this section, the maximum benefit amount of ~~his~~ **the individual's**
36 current claim, as initially determined, shall be reduced by twenty-five
37 percent (25%). If twenty-five percent (25%) of the maximum benefit
38 amount is not an even dollar amount, the amount of such reduction will

1 be raised to the next higher even dollar amount. The maximum benefit
2 amount may not be reduced by more than twenty-five percent (25%)
3 during any benefit period or extended benefit period.

4 (c) The disqualifications provided in this section shall be subject to
5 the following modifications:

6 (1) An individual shall not be subject to disqualification because
7 of separation from the individual's employment if:

8 (A) the individual left to accept with another employer
9 previously secured permanent full-time work which offered
10 reasonable expectation of continued covered employment and
11 betterment of wages or working conditions; and thereafter was
12 employed on said job;

13 (B) having been simultaneously employed by two (2)
14 employers, the individual leaves one (1) such employer
15 voluntarily without good cause in connection with the work
16 but remains in employment with the second employer with a
17 reasonable expectation of continued employment; or

18 (C) the individual left to accept recall made by a base period
19 employer.

20 (2) An individual whose unemployment is the result of medically
21 substantiated physical disability and who is involuntarily
22 unemployed after having made reasonable efforts to maintain the
23 employment relationship shall not be subject to disqualification
24 under this section for such separation.

25 (3) An individual who left work to enter the armed forces of the
26 United States shall not be subject to disqualification under this
27 section for such leaving of work.

28 (4) An individual whose employment is terminated under the
29 compulsory retirement provision of a collective bargaining
30 agreement to which the employer is a party, or under any other
31 plan, system, or program, public or private, providing for
32 compulsory retirement and who is otherwise eligible shall not be
33 deemed to have left the individual's work voluntarily without
34 good cause in connection with the work. However, if such
35 individual subsequently becomes reemployed and thereafter
36 voluntarily leaves work without good cause in connection with the
37 work, the individual shall be deemed ineligible as outlined in this
38 section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

- (A) the employment was outside the individual's labor market;
- (B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and
- (C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual who is an affected employee (as defined in IC 22-4-43-1(1)) and is subject to the work sharing unemployment insurance program under IC 22-4-43 is not disqualified from participating in the work sharing unemployment insurance program.

(9) The following provisions apply to an individual employed by a temporary employment agency (as defined in IC 22-5-6-7):

1 **(A) An individual who last was employed by a temporary**
 2 **employment agency is not considered to have quit**
 3 **employment voluntarily without good cause if the**
 4 **individual did not contact the temporary employment**
 5 **agency for reassignment upon completion of the**
 6 **assignment.**

7 **(B) When an individual who last was employed by a**
 8 **temporary employment agency:**

9 **(i) completes an assignment with a third party;**

10 **(ii) has indicated availability to accept a new assignment**
 11 **with a third party; and**

12 **(iii) is not offered a new assignment that is within the**
 13 **labor market and that has substantially equivalent**
 14 **compensation, benefits, and working conditions;**

15 **the individual is eligible for benefits, subject to the waiting**
 16 **period as set forth in IC 22-4-14-4.**

17 **(C) The failure of the individual to contact the temporary**
 18 **employment agency is not considered a disqualification if**
 19 **the temporary employment firm has violated any provision**
 20 **of state or federal law protecting employees of temporary**
 21 **employment with respect to the individual.**

22 As used in this subsection, "labor market" means the area surrounding
 23 an individual's permanent residence, outside which the individual
 24 cannot reasonably commute on a daily basis. In determining whether
 25 an individual can reasonably commute under this subdivision, the
 26 department shall consider the nature of the individual's job.

27 (d) "Discharge for just cause" as used in this section is defined to
 28 include but not be limited to:

29 (1) separation initiated by an employer for falsification of an
 30 employment application to obtain employment through
 31 subterfuge;

32 (2) knowing violation of a reasonable and uniformly enforced rule
 33 of an employer;

34 (3) unsatisfactory attendance, if the individual cannot show good
 35 cause for absences or tardiness;

36 (4) damaging the employer's property through willful negligence;

37 (5) refusing to obey instructions;

38 (6) reporting to work under the influence of alcohol or drugs or

1 consuming alcohol or drugs on employer's premises during
2 working hours;

3 (7) conduct endangering safety of self or coworkers; or

4 (8) incarceration in jail following conviction of a misdemeanor or
5 felony by a court of competent jurisdiction or for any breach of
6 duty in connection with work which is reasonably owed an
7 employer by an employee.

8 SECTION 51. IC 22-4-15-2, AS AMENDED BY P.L.290-2001,
9 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2003]: Sec. 2. (a) With respect to benefit periods established
11 on and after July 3, 1977, an individual is ineligible for waiting period,
12 **if applicable**, or benefit rights, or extended benefit rights, if the
13 department finds that, being totally, partially, or part-totally
14 unemployed at the time when the work offer is effective or when the
15 individual is directed to apply for work, the individual fails without
16 good cause:

17 (1) to apply for available, suitable work when directed by the
18 commissioner, the deputy, or an authorized representative of the
19 department of workforce development or the United States
20 training and employment service;

21 (2) to accept, at any time after the individual is notified of a
22 separation, suitable work when found for and offered to the
23 individual by the commissioner, the deputy, or an authorized
24 representative of the department of workforce development or the
25 United States training and employment service, or an employment
26 unit; or

27 (3) to return to the individual's customary self-employment when
28 directed by the commissioner or the deputy.

29 (b) With respect to benefit periods established on and after July 6,
30 1980, the ineligibility shall continue for the week in which the failure
31 occurs and until the individual earns remuneration in employment
32 equal to or exceeding the weekly benefit amount of the individual's
33 claim in each of eight (8) weeks. If the qualification amount has not
34 been earned at the expiration of an individual's benefit period, the
35 unearned amount shall be carried forward to an extended benefit period
36 or to the benefit period of a subsequent claim.

37 (c) With respect to extended benefit periods established on and after
38 July 5, 1981, the ineligibility shall continue for the week in which the

1 failure occurs and until the individual earns remuneration in
2 employment equal to or exceeding the weekly benefit amount of the
3 individual's claim in each of four (4) weeks.

4 (d) If an individual failed to apply for or accept suitable work as
5 outlined in this section, the maximum benefit amount of the
6 individual's current claim, as initially determined, shall be reduced by
7 twenty-five percent (25%). If twenty-five percent (25%) of the
8 maximum benefit amount is not an even dollar amount, the amount of
9 such reduction shall be raised to the next higher even dollar amount.
10 The maximum benefit amount of the individual's current claim may not
11 be reduced by more than twenty-five percent (25%) during any benefit
12 period or extended benefit period.

13 (e) In determining whether or not any such work is suitable for an
14 individual, the department shall consider:

- 15 (1) the degree of risk involved to such individual's health, safety,
16 and morals;
- 17 (2) the individual's physical fitness and prior training and
18 experience;
- 19 (3) the individual's length of unemployment and prospects for
20 securing local work in the individual's customary occupation; and
21 (4) the distance of the available work from the individual's
22 residence.

23 However, work under substantially the same terms and conditions
24 under which the individual was employed by a base-period employer,
25 which is within the individual's prior training and experience and
26 physical capacity to perform, shall be considered to be suitable work
27 unless the claimant has made a bona fide change in residence which
28 makes such offered work unsuitable to the individual because of the
29 distance involved.

30 (f) Notwithstanding any other provisions of this article, no work
31 shall be considered suitable and benefits shall not be denied under this
32 article to any otherwise eligible individual for refusing to accept new
33 work under any of the following conditions:

- 34 (1) If the position offered is vacant due directly to a strike,
35 lockout, or other labor dispute.
- 36 (2) If the remuneration, hours, or other conditions of the work
37 offered are substantially less favorable to the individual than
38 those prevailing for similar work in the locality.

1 (3) If as a condition of being employed the individual would be
 2 required to join a company union or to resign from or refrain from
 3 joining a bona fide labor organization.

4 (4) If as a condition of being employed the individual would be
 5 required to discontinue training into which the individual had
 6 entered with the approval of the department.

7 (g) Notwithstanding subsection (e), with respect to extended benefit
 8 periods established on and after July 5, 1981, "suitable work" means
 9 any work which is within an individual's capabilities. However, if the
 10 individual furnishes evidence satisfactory to the department that the
 11 individual's prospects for obtaining work in the individual's customary
 12 occupation within a reasonably short period are good, the
 13 determination of whether any work is suitable work shall be made as
 14 provided in subsection (e).

15 (h) With respect to extended benefit periods established on and after
 16 July 5, 1981, no work shall be considered suitable and extended
 17 benefits shall not be denied under this article to any otherwise eligible
 18 individual for refusing to accept new work under any of the following
 19 conditions:

20 (1) If the gross average weekly remuneration payable to the
 21 individual for the position would not exceed the sum of:

22 (A) the individual's average weekly benefit amount for the
 23 individual's benefit year; plus

24 (B) the amount (if any) of supplemental unemployment
 25 compensation benefits (as defined in Section 501(c)(17)(D) of
 26 the Internal Revenue Code) payable to the individual for such
 27 week.

28 (2) If the position was not offered to the individual in writing or
 29 was not listed with the department of workforce development.

30 (3) If such failure would not result in a denial of compensation
 31 under the provisions of this article to the extent that such
 32 provisions are not inconsistent with the applicable federal law.

33 (4) If the position pays wages less than the higher of:

34 (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The
 35 Fair Labor Standards Act of 1938), without regard to any
 36 exemption; or

37 (B) the state minimum wage (IC 22-2-2).

38 (i) The department of workforce development shall refer individuals

1 eligible for extended benefits to any suitable work (as defined in
2 subsection (g)) to which subsection (h) would not apply.

3 SECTION 52. IC 22-4-15-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **Except as**
5 **provided in section 3.5 of this chapter**, an individual shall be
6 ineligible for waiting period, **if applicable**, or benefit rights for any
7 week with respect to which ~~his~~ **the individual's** total or partial or
8 part-total unemployment is due to a labor dispute at the factory,
9 establishment, or other premises at which ~~he~~ **the individual** was last
10 employed.

11 (b) This section shall not apply to an individual if:

12 (1) ~~he~~ **the individual** has terminated ~~his~~ **the individual's**
13 employment, or ~~his~~ **the individual's** employment has been
14 terminated, with the employer involved in the labor dispute; ~~or if~~

15 (2) the labor dispute which caused ~~his~~ **the individual's**
16 unemployment has terminated and any period necessary to resume
17 normal activities at ~~his~~ **the individual's** place of employment has
18 elapsed; or if

19 (3) all of the following conditions exist: ~~He~~

20 (A) **The individual** is not participating in or financing or
21 directly interested in the labor dispute which caused ~~his~~ **the**
22 **individual's** unemployment. ~~and he~~

23 (B) **The individual** does not belong to a grade or class of
24 workers of which, immediately before the commencement of
25 ~~his~~ **the individual's** unemployment, there were members
26 employed at the same premises as ~~he~~, **the individual**, any of
27 whom are participating in or financing or directly interested in
28 the dispute. ~~and he~~

29 (C) **The individual** has not voluntarily stopped working, other
30 than at the direction of ~~his~~ **the individual's** employer, in
31 sympathy with employees in some other establishment or
32 factory in which a labor dispute is in progress.

33 (c) If in any case separate branches of work which are commonly
34 conducted as separate businesses in separate premises are conducted
35 in separate departments of the same premises, each such department
36 shall, for the purpose of this section, be deemed to be a separate
37 factory, establishment, or other premises.

38 (d) Upon request of any claimant or employer involved in an issue

1 arising under this section, the deputy shall, and in any other case the
 2 deputy may, refer claims of individuals with respect to whom there is
 3 an issue of the application of this section to an administrative law judge
 4 who shall make the initial determination with respect thereto, in
 5 accordance with the procedure in IC 22-4-17-3.

6 (e) Notwithstanding any other provisions of this article, an
 7 individual shall not be ineligible for waiting period, **if applicable**, or
 8 benefit rights under this section solely by reason of ~~his~~ **the individual's**
 9 failure or refusal to apply for or to accept recall to work or
 10 reemployment with an employer during the continuance of a labor
 11 dispute at the factory, establishment, or other premises of the employer,
 12 if the individual's last separation from the employer occurred prior to
 13 the start of the labor dispute and was permanent or for an indefinite
 14 period.

15 SECTION 53. IC 22-4-15-3.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) As used in this section,**
 18 **"shuts down operations" means the termination of business by the**
 19 **employer, whether due to:**

20 (1) **a filing of a petition under 11 U.S.C. 501, 11 U.S.C. 1201,**
 21 **or 11 U.S.C. 1301; or**

22 (2) **cessation of business by the employer, whether or not**
 23 **dissolution procedures under IC 23-1 have been filed.**

24 (b) **If the total or partial or part-total unemployment of an**
 25 **individual due to a labor dispute at the factory, establishment, or**
 26 **other premises at which the individual was last employed ends**
 27 **because the employer shuts down business and the individual**
 28 **continues to be totally, partially, or part-totally unemployed, the**
 29 **individual is eligible for waiting period, if applicable, or benefit**
 30 **rights retroactive to the date of the individual's unemployment due**
 31 **to the labor dispute.**

32 (c) **Any benefits provided by a labor union or other associated**
 33 **fund to the individual during the period of the labor dispute, other**
 34 **than those provided under IC 22-4-5-1(a)(10), may not be**
 35 **considered remuneration for purposes of computing deductible**
 36 **income.**

37 (d) **Any retroactive benefits due to an individual under this**
 38 **section shall be limited to the maximum benefit periods provided**

1 in IC 22-4-12-4.

2 (e) Notwithstanding IC 22-4-14-11, benefits may be paid on the
3 basis of service performed in seasonal employment to an individual
4 who may be due retroactive benefits under this section who:

5 (1) has engaged in seasonal employment; and

6 (2) has filed a claim for benefits outside the operating period
7 of seasonal employment.

8 (f) IC 22-4-14-3 applies only after the date the employer shuts
9 down business.

10 (g) The department may use the procedures prescribed by
11 IC 22-4-17-1 for the taking of claims in the instance of mass layoffs
12 for claims made under this section.

13 SECTION 54. IC 22-4-15-4, AS AMENDED BY P.L.290-2001,
14 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2003]: Sec. 4. (a) An individual ~~shall be~~ is ineligible for
16 waiting period, **if applicable**, or benefit rights for any week with
17 respect to which the individual receives, is receiving, or has received
18 payments equal to or exceeding ~~his~~ **the individual's** weekly benefit
19 amount in the form of:

20 (1) deductible income as defined and applied in IC 22-4-5-1 and
21 IC 22-4-5-2; or

22 (2) any pension, retirement, or annuity payments, under any plan
23 of an employer whereby the employer contributes a portion or all
24 of the money. This disqualification shall apply only if some or all
25 of the benefits otherwise payable are chargeable to the experience
26 or reimbursable account of ~~such~~ **the** employer, or would have
27 been chargeable except for the application of this chapter. For ~~the~~
28 purposes of this subdivision, ~~(2)~~; federal old age, survivors, and
29 disability insurance benefits are not considered payments under
30 a plan of an employer whereby the employer maintains the plan
31 or contributes a portion or all of the money to the extent required
32 by federal law.

33 (b) If the payments described in subsection (a) are less than ~~his~~ **the**
34 **individual's** weekly benefit amount, an otherwise eligible individual
35 ~~shall be~~ is not be ineligible and shall be entitled to receive for ~~such~~ **the**
36 week benefits reduced by the amount of such payments.

37 (c) This section does not preclude an individual from delaying a
38 claim to pension, retirement, or annuity payments until the individual

1 has received the benefits to which the individual would otherwise be
 2 eligible under this chapter. Weekly benefits received before the date
 3 the individual elects to retire shall not be reduced by any pension,
 4 retirement, or annuity payments received on or after the date the
 5 individual elects to retire.

6 SECTION 55. IC 22-4-15-5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Except as provided
 8 in IC ~~1971~~, 22-4-22, an individual ~~shall be~~ **is** ineligible for waiting
 9 period, **if applicable**, or benefit rights for any week with respect to
 10 which or a part of which ~~he~~ **the individual** receives, is receiving, has
 11 received, or is seeking unemployment benefits under an unemployment
 12 compensation law of another state or of the United States. ~~Provided,~~
 13 ~~that~~ **However**, this disqualification shall not apply if the appropriate
 14 agency of such other state or of the United States finally determines
 15 that ~~he~~ **the individual** is not entitled to such employment benefits,
 16 including benefits to federal civilian employees and ex-servicemen
 17 pursuant to 5 U.S.C. Chapter 85.

18 SECTION 56. IC 22-4-16-1 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Notwithstanding any
 20 other provisions of this article, if an individual knowingly fails to
 21 disclose amounts earned during any week in ~~his~~ **the individual's**
 22 waiting period, **if applicable**, benefit period, or extended benefit period
 23 with respect to which benefit rights or extended benefit rights are
 24 claimed, or knowingly fails to disclose or has falsified as to any fact
 25 ~~which that~~ would have disqualified ~~him~~ **the individual** or rendered
 26 ~~him~~ **the individual** ineligible for benefits or extended benefits or would
 27 have reduced ~~his~~ **the individual's** benefit rights or extended benefit
 28 rights during such a week, all of ~~his~~ **the individual's** wage credits
 29 established prior to the week of the falsification or failure to disclose
 30 shall be cancelled, and any benefits or extended benefits ~~which that~~
 31 might otherwise have become payable to ~~him~~ **the individual** and any
 32 benefit rights or extended benefit rights based upon those wage credits
 33 shall be forfeited.

34 SECTION 57. IC 22-4-17-2, AS AMENDED BY P.L.290-2001,
 35 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2003]: Sec. 2. (a) When an individual files an initial claim, the
 37 department shall promptly make a determination of ~~his~~ **the**
 38 **individual's** status as an insured worker in a form prescribed by the

board. A written notice of the determination of insured status shall be furnished **him to the individual** promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ~~twenty (20)~~ **ten (10)** days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within ~~twenty (20)~~ **ten (10)** days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits, **if applicable**, or benefits, shall notify the department of such facts within ~~twenty (20)~~ **ten (10)** days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the board.

(d) In addition to the foregoing determination of insured status by

1 the department, the deputy shall, throughout the benefit period,
 2 determine the claimant's eligibility with respect to each week for which
 3 the claimant claims waiting period credit, **if applicable**, or benefit
 4 rights, the validity of the claimant's claim therefor, and the cause for
 5 which the claimant left the claimant's work, or may refer such claim to
 6 an administrative law judge who shall make the initial determination
 7 with respect thereto in accordance with the procedure in IC 22-4-17-3.

8 (e) In cases where the claimant's benefit eligibility or
 9 disqualification is disputed, the department shall promptly notify the
 10 claimant and the employer or employers directly involved or connected
 11 with the issue raised as to the validity of such claim, the eligibility of
 12 the claimant for waiting period credit, **if applicable**, or benefits, or the
 13 imposition of a disqualification period or penalty, or the denial thereof,
 14 and of the cause for which the claimant left the claimant's work, of such
 15 determination and the reasons thereof. Except as otherwise hereinafter
 16 provided in this subsection regarding parties located in Alaska, Hawaii,
 17 and Puerto Rico, unless the claimant or such employer, within ~~twenty~~
 18 ~~(20)~~ **ten (10)** days after such notification was mailed to the claimant's
 19 or the employer's last known address, or otherwise delivered to the
 20 claimant or the employer, asks a hearing before an administrative law
 21 judge thereon, such decision shall be final and benefits shall be paid or
 22 denied in accordance therewith. With respect to notice of disputed
 23 administrative determination or decision mailed or otherwise delivered
 24 to the claimant or employer either of whom is located in Alaska,
 25 Hawaii, or Puerto Rico, unless such claimant or employer, within
 26 ~~twenty-five (25)~~ **fifteen (15)** days after such notification was mailed to
 27 the claimant's or employer's last known address or otherwise delivered
 28 to the claimant or employer, asks a hearing before an administrative
 29 law judge thereon, such decision shall be final and benefits shall be
 30 paid or denied in accordance therewith. If such hearing is desired, the
 31 request therefor shall be filed with the commissioner in writing within
 32 the prescribed periods as above set forth in this subsection and shall be
 33 in such form as the board may prescribe. In the event a hearing is
 34 requested by an employer or the department after it has been
 35 administratively determined that benefits should be allowed to a
 36 claimant, entitled benefits shall continue to be paid to said claimant
 37 unless said administrative determination has been reversed by a due
 38 process hearing. Benefits with respect to any week not in dispute shall

1 be paid promptly regardless of any appeal.

2 (f) ~~No~~ A person may **not** participate on behalf of the department in
3 any case in which the person is an interested party.

4 (g) Solely on the ground of obvious administrative error appearing
5 on the face of an original determination, and within the benefit year of
6 the affected claims, the commissioner, or a representative authorized
7 by the commissioner to act in the commissioner's behalf, may
8 reconsider and direct the deputy to revise the original determination so
9 as to correct the obvious error appearing therein. Time for filing an
10 appeal and requesting a hearing before an administrative law judge
11 regarding the determinations handed down pursuant to this subsection
12 shall begin on the date following the date of revision of the original
13 determination and shall be filed with the commissioner in writing
14 within the prescribed periods as above set forth in subsection (c).

15 (h) Notice to the employer and the claimant that the determination
16 of the department is final if a hearing is not requested shall be
17 prominently displayed on the notice of the determination which is sent
18 to the employer and the claimant.

19 SECTION 58. IC 22-4-24.5-1, AS AMENDED BY P.L.1-2002,
20 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2003]: Sec. 1. (a) The skills 2016 training fund is established
22 to do the following:

23 (1) Administer the costs of the skills 2016 training program
24 established by IC 22-4-10.5.

25 (2) Undertake any program or activity that furthers the purposes
26 of IC 22-4-10.5.

27 (3) Refund skills 2016 training assessments erroneously collected
28 and deposited in the fund.

29 (b) ~~Subject to subsection (j), fifty-five~~ **Ninety-five** percent ~~(55%)~~
30 **(95%)** of the money in the fund shall be allocated to the state
31 educational institution established under IC 20-12-61. The money so
32 allocated to that state educational institution shall be used as follows:

33 (1) An amount to be determined annually shall be allocated to the
34 state educational institution established under IC 20-12-61 for its
35 costs in administering the training programs described in
36 subsection ~~(b)~~. **(a)**. However, the amount so allocated may not
37 exceed ~~fifteen~~ **twelve and one-half** percent ~~(15%)~~ **(12.5%)** of the
38 total amount of money allocated under this subsection.

(2) After the allocation made under subdivision (1), forty percent (40%) shall be used to provide training to participants in joint labor and management building trades apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(3) After the allocation made under subdivision (1), forty percent (40%) shall be used to provide training to participants in joint labor and management industrial apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(4) After the allocation made under subdivision (1), twenty percent (20%) shall be used to provide training to industrial employees not covered by subdivision (2).

(c) ~~Subject to subsection (j);~~ The remainder of the money in the fund shall be allocated as follows:

(1) An amount not to exceed one million dollars (\$1,000,000) shall be allocated to the department of workforce development annually for technology needs of the department.

~~(2) An amount not to exceed four hundred fifty thousand dollars (\$450,000) shall be allocated annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:~~

~~(A) have been unemployed for at least four (4) weeks;~~

~~(B) are not otherwise eligible for training and counseling assistance under any other program; and~~

~~(C) are not participating in programs that duplicate those programs described in IC 22-4-25-1(e).~~

~~Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subdivision shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits.~~

~~(3) (2)~~ An amount to be determined annually shall be set aside for the payment of refunds from the fund.

~~(4) (3)~~ The remainder of the money in the fund after the allocations provided for in subsection (b) and subdivisions (1)

1 through ~~(3)~~ (2) shall be allocated to other incumbent worker
2 training programs.

3 (d) The fund shall be administered by the board. However, all
4 disbursements from the fund must be recommended by the incumbent
5 workers training board and approved by the board as required by
6 IC 22-4-18.3-6.

7 (e) The treasurer of state shall invest the money in the fund not
8 currently needed to meet the obligations of the fund in the same
9 manner as other public money may be invested. Interest that accrues
10 from these investments shall be deposited in the fund.

11 (f) Money in the fund at the end of a state fiscal year does not revert
12 to the state general fund.

13 (g) The fund consists of the following:

14 (1) Assessments deposited in the fund.

15 (2) Earnings acquired through the use of money belonging to the
16 fund.

17 (3) Money received from the fund from any other source.

18 (4) Interest earned from money in the fund.

19 (5) Interest and penalties collected.

20 (h) All money deposited or paid into the fund is appropriated
21 annually for disbursements authorized by this section.

22 (i) Any balance in the fund does not lapse but is available
23 continuously to the department for expenditures consistent with this
24 chapter.

25 ~~(j) If the fund ratio (as described in IC 22-4-11-3) is less than or~~
26 ~~equal to 1.5 or if the board determines that the solvency of the~~
27 ~~unemployment insurance benefit fund established by IC 22-4-26-1 is~~
28 ~~threatened, the funds assessed for or deposited in the skills 2016~~
29 ~~training fund shall be directed or transferred to the unemployment~~
30 ~~insurance benefit fund.~~

31 SECTION 59. IC 22-4-25-1, AS AMENDED BY P.L.290-2001,
32 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2003]: Sec. 1. (a) There is created in the state treasury a
34 special fund to be known as the special employment and training
35 services fund. All interest on delinquent contributions and penalties
36 collected under this article, together with any voluntary contributions
37 tendered as a contribution to this fund **and amounts deposited as**
38 **required by IC 22-4-10.5-7(b)**, shall be paid into this fund. The

1 money shall not be expended or available for expenditure in any
2 manner which would permit their substitution for (or a corresponding
3 reduction in) federal funds which would in the absence of said money
4 be available to finance expenditures for the administration of this
5 article, but nothing in this section shall prevent said money from being
6 used as a revolving fund to cover expenditures necessary and proper
7 under the law for which federal funds have been duly requested but not
8 yet received, subject to the charging of such expenditures against such
9 funds when received. The money in this fund shall be used by the board
10 for the payment of refunds of interest on delinquent contributions and
11 penalties so collected, for the payment of costs of administration which
12 are found not to have been properly and validly chargeable against
13 federal grants or other funds received for or in the employment and
14 training services administration fund, on and after July 1, 1945. Such
15 money shall be available either to satisfy the obligations incurred by
16 the board directly, or by transfer by the board of the required amount
17 from the special employment and training services fund to the
18 employment and training services administration fund. No expenditure
19 of this fund shall be made unless and until the board finds that no other
20 funds are available or can properly be used to finance such
21 expenditures, except that expenditures from said fund may be made for
22 the purpose of acquiring lands and buildings or for the erection of
23 buildings on lands so acquired which are deemed necessary by the
24 board for the proper administration of this article. The board shall order
25 the transfer of such funds or the payment of any such obligation or
26 expenditure and such funds shall be paid by the treasurer of state on
27 requisition drawn by the board directing the auditor of state to issue the
28 auditor's warrant therefor. Any such warrant shall be drawn by the state
29 auditor based upon vouchers certified by the board or the
30 commissioner. The money in this fund is hereby specifically made
31 available to replace within a reasonable time any money received by
32 this state pursuant to 42 U.S.C. 502, as amended, which, because of
33 any action or contingency, has been lost or has been expended for
34 purposes other than or in amounts in excess of those approved by the
35 bureau of employment security. The money in this fund shall be
36 continuously available to the board for expenditures in accordance with
37 the provisions of this section and shall not lapse at any time or be
38 transferred to any other fund, except as provided in this article. Nothing

1 in this section shall be construed to limit, alter, or amend the liability
2 of the state assumed and created by IC 22-4-28, or to change the
3 procedure prescribed in IC 22-4-28 for the satisfaction of such liability,
4 except to the extent that such liability may be satisfied by and out of the
5 funds of such special employment and training services fund created
6 by this section.

7 (b) The board, subject to the approval of the budget agency and
8 governor, is authorized and empowered to use all or any part of the
9 funds in the special employment and training services fund for the
10 purpose of acquiring suitable office space for the department by way
11 of purchase, lease, contract, or in any part thereof to purchase land and
12 erect thereon such buildings as the board determines necessary or to
13 assist in financing the construction of any building erected by the state
14 or any of its agencies wherein available space will be provided for the
15 department under lease or contract between the department and the
16 state or such other agency. The commissioner may transfer from the
17 employment and training services administration fund to the special
18 employment and training services fund amounts not exceeding funds
19 specifically available to the commissioner for that purpose equivalent
20 to the fair, reasonable rental value of any land and buildings acquired
21 for its use until such time as the full amount of the purchase price of
22 such land and buildings and such cost of repair and maintenance
23 thereof as was expended from the special employment and training
24 services fund has been returned to such fund.

25 (c) The board may also transfer from the employment and training
26 services administration fund to the special employment and training
27 services fund amounts not exceeding funds specifically available to the
28 commissioner for that purpose equivalent to the fair, reasonable rental
29 value of space used by the department in any building erected by the
30 state or any of its agencies until such time as the department's
31 proportionate amount of the purchase price of such building and the
32 department's proportionate amount of such cost of repair and
33 maintenance thereof as was expended from the special employment and
34 training services fund has been returned to such fund.

35 (d) Whenever the balance in the special employment and training
36 services fund is deemed excessive by the board, the board shall order
37 payment into the unemployment insurance benefit fund of the amount
38 of the special employment and training services fund deemed to be

1 excessive.

2 (e) Subject to the approval of the board, the commissioner may use
3 not more than five million dollars (\$5,000,000) during a program year
4 for training provided by the state educational institution established
5 under IC 20-12-61 to participants in joint labor and management
6 apprenticeship programs approved by the United States Department of
7 Labor's Bureau of Apprenticeship Training. Of the money allocated for
8 training programs under this subsection, fifty percent (50%) is
9 designated for industrial programs, and the remaining fifty (50%)
10 percent is designated for building trade programs.

11 (f) **The commissioner shall allocate an amount not to exceed**
12 **four hundred fifty thousand dollars (\$450,000) annually for**
13 **training and counseling assistance under IC 22-4-14-2 provided by**
14 **state educational institutions (as defined in IC 20-12-0.5-1) or**
15 **counseling provided by the department of workforce development**
16 **for individuals who:**

- 17 (1) **have been unemployed for at least four (4) weeks;**
- 18 (2) **are not otherwise eligible for training and counseling**
19 **assistance under any other program; and**
- 20 (3) **are not participating in programs that duplicate those**
21 **programs described in subsection (e).**

22 **Training or counseling provided under IC 22-4-14-2 does not**
23 **excuse the claimant from complying with the requirements of**
24 **IC 22-4-14-3. Eligibility for training and counseling assistance**
25 **under this subdivision shall not be determined until after the**
26 **fourth week of eligibility for unemployment training compensation**
27 **benefits. The training and counseling assistance programs funded**
28 **by this subsection must be approved by the United States**
29 **Department of Labor's Bureau of Apprenticeship Training."**

30 Page 3, between lines 37 and 38, begin a new paragraph and insert:
31 "SECTION 61. IC 22-4-43 IS ADDED TO THE INDIANA CODE
32 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2003]:

34 **Chapter 43. Work Sharing**

35 **Sec. 1. The following definitions apply throughout this chapter:**

- 36 (1) **"Affected employee" means an individual who has been**
37 **continuously on the payroll of an affected unit for at least**
38 **three (3) months before the employing unit submits a work**

- 1 **sharing plan.**
- 2 **(2) "Affected unit" means a specific plant, department, shift,**
- 3 **or other definable unit of an employing unit:**
- 4 **(A) that has at least two (2) employees; and**
- 5 **(B) to which an approved work sharing plan applies.**
- 6 **(3) "Approved work sharing plan" means a plan that satisfies**
- 7 **the purpose set forth in section 2 of this chapter and has the**
- 8 **approval of the commissioner.**
- 9 **(4) "Commissioner" means the commissioner of workforce**
- 10 **development appointed under IC 22-4.1-3-1.**
- 11 **(5) "Normal weekly work hours" means the lesser of:**
- 12 **(A) the number of hours that an employee in the affected**
- 13 **unit works when the unit is operating on its normal**
- 14 **full-time basis; or**
- 15 **(B) forty (40) hours.**
- 16 **(6) "Work sharing benefit" means a benefit payable to an**
- 17 **affected employee for work performed under an approved**
- 18 **work sharing plan, but does not include benefits that are**
- 19 **otherwise payable under this article.**
- 20 **(7) "Work sharing employer" means an employing unit for**
- 21 **which a work sharing plan has been approved.**
- 22 **(8) "Work sharing plan" means a plan of an employing unit**
- 23 **under which:**
- 24 **(A) normal weekly work hours of affected employees are**
- 25 **reduced; and**
- 26 **(B) affected employees share the work that remains after**
- 27 **the reduction.**
- 28 **Sec. 2. The work sharing unemployment insurance program**
- 29 **seeks to:**
- 30 **(1) preserve the jobs of employees and the workforce of an**
- 31 **employer during lowered economic activity by reduction in**
- 32 **work hours or workdays rather than by a layoff of some**
- 33 **employees while other employees continue their normal**
- 34 **weekly work hours or workdays; and**
- 35 **(2) ameliorate the adverse effect of reduction in business**
- 36 **activity by providing benefits for the part of the normal**
- 37 **weekly work hours or workdays in which an employee does**
- 38 **not work.**

1 **Sec. 3. An employing unit that wishes to participate in the work**
 2 **sharing unemployment insurance program shall submit to the**
 3 **commissioner a written work sharing plan.**

4 **Sec. 4. (a) Within fifteen (15) days after receipt of a work**
 5 **sharing plan, the commissioner shall give written approval or**
 6 **disapproval of the plan to the employing unit.**

7 **(b) The decision of the commissioner to disapprove a work**
 8 **sharing plan is final and may not be appealed.**

9 **(c) An employing unit may submit a new work sharing plan not**
 10 **less than fifteen (15) days after disapproval of a work sharing plan.**

11 **Sec. 5. The commissioner shall approve a work sharing plan**
 12 **that meets the following requirements:**

13 **(1) The work sharing plan must apply to:**

14 **(A) at least ten percent (10%) of the employees in an**
 15 **affected unit; or**

16 **(B) at least twenty (20) employees in an affected unit.**

17 **(2) The normal weekly work hours of affected employees in**
 18 **the affected unit shall be reduced by at least ten percent**
 19 **(10%), but the reduction may not exceed fifty percent (50%)**
 20 **unless waived by the commissioner.**

21 **Sec. 6. A work sharing plan must:**

22 **(1) identify the affected unit;**

23 **(2) identify each employee in the affected unit by:**

24 **(A) name;**

25 **(B) Social Security number; and**

26 **(C) any other information the commissioner requires;**

27 **(3) specify an expiration date that is not more than six (6)**
 28 **months after the effective date of the work sharing plan;**

29 **(4) specify the effect that the work sharing plan will have on**
 30 **the fringe benefits of each employee in the affected unit,**
 31 **including:**

32 **(A) health insurance for hospital, medical, dental, and**
 33 **similar services;**

34 **(B) retirement benefits under benefit pension plans as**
 35 **defined in the federal Employee Retirement Income**
 36 **Security Act (29 U.S.C. 1001 et seq.);**

37 **(C) holiday and vacation pay;**

38 **(D) sick leave; and**

- 1 (E) similar advantages;
- 2 (5) certify that:
 - 3 (A) each affected employee has been continuously on the
 - 4 payroll of the employing unit for three (3) months
 - 5 immediately before the date on which the employing unit
 - 6 submits the work sharing plan; and
 - 7 (B) the total reduction in normal weekly work hours is in
 - 8 place of layoffs that would have:
 - 9 (i) affected at least the number of employees specified in
 - 10 section 5(1) of this chapter; and
 - 11 (ii) resulted in an equivalent reduction in work hours;
 - 12 and
 - 13 (6) contain the written approval of the collective bargaining
 - 14 agent for each collective bargaining agreement that covers
 - 15 any affected employee in the affected unit.

16 **Sec. 7.** If a work sharing plan serves the work sharing employer
 17 as a transitional step to permanent staff reduction, the work
 18 sharing plan must contain a reemployment assistance plan for each
 19 affected employee that the work sharing employer develops with
 20 the commissioner.

- 21 **Sec. 8.** The work sharing employer shall agree to:
- 22 (1) submit reports that are necessary to administer the work
 - 23 sharing plan; and
 - 24 (2) allow the department to have access to all records
 - 25 necessary to:
 - 26 (A) verify the work sharing plan before its approval; and
 - 27 (B) monitor and evaluate the application of the work
 - 28 sharing plan after its approval.

29 **Sec. 9. (a)** An approved work sharing plan may be modified if
 30 the modification meets the requirements for approval under
 31 section 6 of this chapter and the commissioner approves the
 32 modifications.

33 (b) An employing unit may add an employee to a work sharing
 34 plan when the employee has been continuously on the payroll for
 35 three (3) months.

36 (c) An approved modification of a work sharing plan may not
 37 change its expiration date.

38 **Sec. 10. (a)** An affected employee is eligible under this chapter

1 to receive work sharing benefits for each week in which the
2 commissioner determines that the affected employee is:

3 (1) able to work; and

4 (2) available for more hours of work or full-time work for
5 the worksharing employer.

6 (b) An affected employee who otherwise is eligible may not be
7 denied work sharing benefits for lack of effort to secure work as set
8 forth in IC 22-4-14-3 or for failure to apply for available suitable
9 work as set forth in IC 22-4-15-2 from a person other than the
10 work sharing employer.

11 (c) An affected employee shall apply for benefits under
12 IC 22-4-17-1.

13 (d) An affected employee who otherwise is eligible for benefits
14 is:

15 (1) considered to be unemployed for the purpose of the work
16 sharing unemployment insurance program; and

17 (2) not subject to the requirements of IC 22-4-14-2.

18 Sec. 11. The weekly work sharing unemployment compensation
19 benefit due to an affected worker is determined in STEP FIVE of
20 the following formula:

21 STEP ONE: Determine the weekly benefit that would be due
22 to the affected employee under IC 22-4-12-4.

23 STEP TWO: Subtract the number of the employee's work
24 hours under the approved work sharing plan from the
25 number of the employee's normal work hours.

26 STEP THREE: Divide the STEP TWO result by the number
27 of the employee's normal work hours.

28 STEP FOUR: Multiply the number determined in STEP ONE
29 by the quotient determined in STEP THREE.

30 STEP FIVE: If the product determined under STEP FOUR is
31 not a multiple of one dollar (\$1), round down to the nearest
32 lower multiple of one dollar (\$1).

33 Sec. 12. (a) An affected employee is eligible to receive not more
34 than twenty-six (26) weeks of work sharing benefits during each
35 benefit year.

36 (b) The total amount of benefits payable under IC 22-4-12-4 and
37 work sharing benefits payable under this chapter may not exceed
38 the total payable for the benefit year under IC 22-4-12-4(a).

1 **Sec. 13. During a week in which an affected employee who**
 2 **otherwise is eligible for benefits does not work for the work**
 3 **sharing employer:**

4 **(1) the individual shall be paid unemployment insurance**
 5 **benefits in accordance with IC 22-4-12; and**

6 **(2) the week does not count as a week for which a work**
 7 **sharing benefit is received.**

8 **Sec. 14. During a week in which an employee earns wages under**
 9 **an approved work sharing plan and other wages, the work sharing**
 10 **benefit shall be reduced by the same percentage that the combined**
 11 **wages are of wages for normal weekly work hours if the other**
 12 **wages:**

13 **(1) exceed the wages earned under the approved work sharing**
 14 **plan; and**

15 **(2) do not exceed ninety percent (90%) of the wages that the**
 16 **individual earns for normal weekly work hours.**

17 **This computation applies regardless of whether the employee**
 18 **earned the other wages from the work sharing employer or**
 19 **another employer.**

20 **Sec. 15. While an affected employee applies for or receives work**
 21 **sharing benefits, the affected employee is not eligible for:**

22 **(1) extended benefits under IC 22-4-12-4; or**

23 **(2) supplemental federal unemployment compensation.**

24 **Sec. 16. Work sharing benefits shall be charged to the work**
 25 **sharing employer's experience balance in the same manner as**
 26 **unemployment insurance is charged under this article. Employers**
 27 **liable for payments instead of contributions shall have work**
 28 **sharing benefits attributed to service in their employ in the same**
 29 **manner as unemployment insurance is attributed under this**
 30 **article.**

31 **Sec. 17. The commissioner may revoke approval of an approved**
 32 **work sharing plan for good cause, including:**

33 **(1) conduct or an occurrence that tends to defeat the intent**
 34 **and effective operation of the approved work sharing plan;**

35 **(2) failure to comply with an assurance in the approved work**
 36 **sharing plan;**

37 **(3) unreasonable revision of a productivity standard of the**
 38 **affected unit; and**

(4) violation of a criterion on which the commissioner based the approval of the work sharing plan.

Sec. 18. This chapter expires January 1, 2006.

SECTION 62. IC 22-4-44 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 44. Expanded Unemployment Insurance Benefits While in State Training

Sec. 1. It is the intent of the general assembly that:

(1) a training benefits program be established to provide unemployment insurance benefits to unemployed individuals who participate in training programs necessary for their reemployment;

(2) funding for the program be limited by a specified maximum amount each fiscal year;

(3) individuals unemployed as a result of structural changes in the economy and technological advances rendering their skills obsolete must receive the highest priority for participation in the program;

(4) individuals for whom suitable employment is available are not eligible for additional benefits while participating in training; and

(5) the program must serve the following goals:

(A) Retraining should be available for those unemployed individuals whose skills are no longer in demand.

(B) To be eligible for retraining, an individual must have a long term attachment to the labor force.

(C) Training must enhance the individual's marketable skills and earning power.

(D) Retraining must be targeted to those industries or skills that are in high demand within the labor market.

Sec. 2. The following definitions apply throughout this chapter:

(1) "High demand" means demand for employment that exceeds the supply of qualified workers for occupations or skill sets in a labor market area.

(2) "State educational institution" has the meaning set forth in IC 20-12-0.5-1 and includes an equivalent educational institution in another state that also receives appropriations

1 from the general assembly of the other state.

2 (3) "Sufficient tenure" means earning a plurality of wages in
3 a particular occupation or using a particular skill set during
4 the base period and at least two (2) of the four (4) twelve (12)
5 month periods immediately preceding the base period.

6 (4) "Training benefits" means additional benefits paid under
7 this chapter.

8 (5) "Training program" means:

9 (A) an education program determined to be necessary as
10 a prerequisite to vocational training after counseling at the
11 state educational institution in which the individual enrolls
12 under the individual's approved training program; or

13 (B) a vocational training program at a state educational
14 institution that:

15 (i) is targeted to training for a high demand occupation.

16 The assessment of high demand occupations authorized
17 for training under this chapter must be substantially
18 based on labor market and employment information
19 developed by the department of workforce development
20 in cooperation with the commissioner of labor under
21 IC 22-1-1-8(2);

22 (ii) is likely to enhance the individual's marketable skills
23 and earning power; and

24 (iii) meets the criteria for performance developed by the
25 department of workforce development for the purpose of
26 determining those training programs eligible for funding
27 under 29 U.S.C. 2911 et seq.

28 The term does not include any course of education primarily
29 intended to meet the requirements of a baccalaureate or
30 higher degree, unless the training meets specific requirements
31 for certification, licensing, or specific skills necessary for the
32 occupation.

33 Sec. 3. Subject to availability of funds, training benefits are
34 available for an individual who meets all the following conditions:

35 (1) The individual is eligible for or has exhausted entitlement
36 to unemployment compensation benefits.

37 (2) The individual is a dislocated worker who:

38 (A) has been terminated or received a notice of termination

1 from employment;
 2 (B) is eligible for or has exhausted entitlement to
 3 unemployment compensation benefits; and
 4 (C) is unlikely to return to employment in the individual's
 5 principal occupation or previous industry because of a
 6 diminishing demand for the individual's skills in that
 7 occupation or industry.

8 (3) Except as provided under subdivision (4), the individual
 9 has demonstrated, through a work history, sufficient tenure
 10 in an occupation or in work with a particular skill set. This
 11 screening will take place during the assessment process.

12 (4) The individual is, after assessment of demand for the
 13 individual's occupation or skills in the individual's labor
 14 market, determined to need job related training to find
 15 suitable employment in the individual's labor market. The
 16 assessment of demand for the individual's occupation or skill
 17 sets must be substantially based on declining occupation or
 18 skill sets identified in local labor market areas by the
 19 department of workforce development.

20 (5) The individual develops an individual training program
 21 that is submitted to the commissioner for approval within
 22 sixty (60) days after the individual is notified by the
 23 department of the requirements of this section.

24 (6) The individual enters the approved training program
 25 within ninety (90) days after the date of the notification,
 26 unless the department determines that the training is not
 27 available during the ninety (90) day period, in which case the
 28 individual enters training as soon as it is available.

29 (7) The individual is enrolled in training approved under this
 30 chapter on a full-time basis as determined by the state
 31 educational institution and is making satisfactory progress in
 32 the training as certified by the state educational institution.

33 **Sec. 4. An individual is not eligible for training benefits under**
 34 **this chapter if the individual:**

35 (1) is a standby claimant who expects recall to the individual's
 36 regular employer;
 37 (2) has a definite recall date that is within six (6) months after
 38 the date the individual has been laid off; or

1 (3) is unemployed due to regular seasonal employment as
2 defined in IC 22-4-8-4(a).

3 **Sec. 5. Benefits shall be paid as follows:**

4 (1) The total training benefit amount shall be fifty-two (52)
5 times the individual's weekly benefit amount, reduced by the
6 total amount of regular benefits and extended benefits paid or
7 considered paid with respect to the benefit year.

8 (2) The weekly benefit amount shall be the same as the
9 regular weekly amount payable during the applicable benefit
10 year and shall be paid under the same terms and conditions as
11 regular benefits. The training benefits shall be paid before any
12 extended benefits but not before any similar federally funded
13 program.

14 (3) Training benefits are not payable for weeks more than two
15 (2) years beyond the end of the benefit year of the regular
16 claim.

17 **Sec. 6. The provisions of IC 22-4-2-34(i) relating to exhaustees**
18 **and regular benefits do not apply to an individual otherwise**
19 **eligible for training benefits under this chapter when the**
20 **individual's benefit year ends before the training benefits are**
21 **exhausted and the individual is eligible for a new benefit year. The**
22 **individual will have the option of remaining on the original claim**
23 **or filing a new claim.**

24 **Sec. 7. An individual who receives training benefits under this**
25 **chapter or under any previous additional benefits program for**
26 **training is not eligible for training benefits under this chapter for**
27 **five (5) years after the last receipt of training benefits under this**
28 **chapter or under any previous additional benefits program for**
29 **training.**

30 **Sec. 8. All base period employers are interested parties to the**
31 **approval of training and the granting of training benefits.**

32 **Sec. 9. The department of workforce development in**
33 **cooperation with the commissioner of labor under IC 22-1-1-8(2)**
34 **must identify occupations and skill sets that are declining and**
35 **occupations and skill sets that are in high demand. The department**
36 **of workforce development shall update this information annually**
37 **or more frequently if needed.**

38 **Sec. 10. The department may pay training benefits under section**

3 of this chapter but may not obligate expenditures beyond the appropriation made by the general assembly or beyond funds available to the department under IC 22-4-40-11. The department shall develop a procedure to ensure that expenditures do not exceed available funds and to prioritize access to funds when again available.

Sec. 11. The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 63. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6. Protection for Temporary Employees in the Construction Trades

Sec. 1. As used in this chapter, "benefits" means compensation provided in addition to wages, including any of the following:

- (1) Accrual of seniority.
- (2) Credit for length of service.
- (3) Disability and health insurance.
- (4) Holiday pay or time off.
- (5) Pension entitlement accrual.
- (6) Sick leave.
- (7) Vacation leave or pay.

Sec. 2. As used in this chapter, "client company" means a business that leases the services of employees or receives services or functions through temporary employment agencies.

Sec. 3. As used in this chapter, "construction trades" means any trade or occupation involving construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, or excavation.

Sec. 4. As used in this chapter, "department" refers to the department of labor.

Sec. 5. As used in this chapter, "liquidity fee" means a penalty charged by a temporary employment agency against:

- (1) a temporary employee for accepting a position of employment with the client company; or
- (2) a client company for hiring a temporary employee.

Sec. 6. As used in this chapter, "substantially equivalent work"

1 means work on jobs:

2 (1) the performance of which requires equal skill, effort, and
3 responsibility; and

4 (2) under similar working conditions.

5 Sec. 7. As used in this chapter, "temporary employee" means a
6 temporary employment agency employee who, in the course of
7 employment, performs personal services in the construction trades
8 on a temporary basis to a third party client company under the
9 direction and control of the third party client company. The term
10 does not include a person who is an independent contractor in the
11 construction trades under IC 22-3-6-1(b)(7).

12 Sec. 8. As used in this chapter, "temporary employment agency"
13 means an employer that for a fee:

14 (1) recruits;

15 (2) procures;

16 (3) refers;

17 (4) places; or

18 (5) employs;

19 workers to perform personal services on a temporary basis to a
20 third party client company under the direction and control of the
21 third party client company.

22 Sec. 9. A temporary employment agency shall post in its labor
23 hall where temporary employees are required to appear for
24 assignment to work or, if there is no such labor hall, provide to
25 each temporary employee seeking employment a list of all client
26 companies at which work is available through the temporary
27 employment agency. The list must include the following for each
28 job opportunity posted:

29 (1) The name and address of the client company and the exact
30 address of the worksite, directions to the worksite, and a
31 telephone number at which a temporary employee could be
32 reached in an emergency situation.

33 (2) The type of job opportunity for temporary employees.

34 (3) A detailed description of the work to be performed by the
35 temporary employee, including any requirements for special
36 attire, accessories, tools, or safety equipment.

37 (4) The method of computing compensation and the amount
38 of compensation and benefits to be paid for the work, and the

overtime rate of compensation if it might be available.

(5) Any cost of the transportation to the temporary employee.

(6) The duration of the work to be performed by the temporary employee, including:

(A) the time of day the work will begin;

(B) the time of day the work will end;

(C) the schedule of days on which the work will be performed;

(D) when the work is expected to end; and

(E) whether there is any possibility of overtime work or extension of the work past the anticipated end date.

(7) Any safety or hazardous material information that is available to the temporary employment agency shall be made available to the temporary employee. The information must include, but is not limited to, a complete and accurate description of worksite hazards to which the temporary employee may become exposed, including any hazardous materials that the temporary employee may be required to use or handle and any physical conditions or work practices that do not comply with applicable occupational health and safety standards.

(8) Whether a meal is provided, either by the temporary employment agency or the client company, and any cost of the meal to the temporary employee.

Sec. 10. A temporary employment agency shall:

(1) compensate temporary employees for work performed in the manner of payment set forth in IC 22-2-5-1;

(2) offer pay and benefits equal to those provided to the permanent employees of the client company to temporary employees who have been employed at the premises of the client company for a total of at least ninety (90) days, whether or not continuously, and who perform substantially equivalent work compared to employees of the client company where the temporary employees work;

(3) subject to subdivision (2), compensate temporary employees at a rate at or above the federal minimum wage, which shall not be reduced to less than the federal minimum wage by deductions other than those permitted by federal or

1 state law;

2 (4) include a written notification with each payment of wages
3 to the temporary employee, which shall be included on the
4 temporary employee's statement of earnings and deductions,
5 specifying:

6 (A) the hourly rate paid for the temporary employee;

7 (B) the itemized deductions made from the wage payment
8 made to the temporary employee by the temporary
9 employment agency; and

10 (C) an itemized list of benefits provided to the temporary
11 employee by the temporary employment agency; and

12 (5) provide each temporary employee with an annual earnings
13 summary not later than February 1 for the preceding
14 calendar year.

15 Sec. 11. A temporary employment agency shall not charge a
16 temporary employee:

17 (1) for safety equipment, clothing, tools, accessories, or any
18 other items required by the nature of the work, either by law,
19 custom, or a requirement of the client company. This
20 subdivision does not preclude the temporary employment
21 agency from charging the temporary employee the market
22 value of items temporarily provided to the temporary
23 employee by the temporary employment agency if the
24 temporary employee willfully fails to return the items to the
25 temporary employment agency; however, a charge may not
26 be made for items damaged through ordinary use or lost
27 through no fault of the temporary employee;

28 (2) for merchandise or supplies other than those referenced in
29 subdivision (1) that the temporary employment agency makes
30 available for purchase at a higher price than merchandise or
31 supplies sold to others, as provided in IC 22-2-4-3;

32 (3) to transport the temporary employee to or from a
33 worksite;

34 (4) for directly or indirectly cashing a temporary employee's
35 paycheck; or

36 (5) if a meal is provided at the worksite by the temporary
37 employment agency, more than the actual cost of providing
38 the meal, but the purchase of a meal may not be a condition

1 of employment.

2 **Sec. 12. (a) A temporary employment agency that operates a**
 3 **labor hall where temporary workers are required to appear for:**

4 (1) assignment to work; or

5 (2) payment of compensation;

6 shall provide facilities for temporary employees waiting at the
 7 labor hall for a job assignment that includes restroom facilities,
 8 drinking water, and sufficient seating.

9 (b) A temporary employment agency shall insure at the
 10 minimum rate required by the law of the state in which the motor
 11 vehicle is registered any motor vehicle owned or operated by the
 12 temporary employment agency and used for the transportation of
 13 temporary employees.

14 (c) All advertisements of a temporary employment agency must
 15 contain the correct name of the temporary employment agency and
 16 one (1) of the following:

17 (1) The street address of the place of business of the
 18 temporary employment agency.

19 (2) The correct telephone number of the temporary
 20 employment agency at its place of business.

21 **Sec. 13. (a) A temporary employment agency shall not restrict**
 22 **the right of:**

23 (1) a temporary employee to accept a permanent position with
 24 a client company to whom the temporary employee is referred
 25 for temporary employment; or

26 (2) the client company to offer employment to a temporary
 27 employee of the temporary employment agency.

28 **However, this chapter does not restrict the temporary employment**
 29 **agency from receiving a reasonable liquidity fee from the client**
 30 **company.**

31 (b) A temporary employment agency shall not make or give, or
 32 cause to be made or given any false, leading, or deceptive
 33 advertisements, information, or representation concerning the
 34 services, compensation, benefits, or work opportunities that the
 35 client company will provide to the temporary employees.

36 **Sec. 14. The worker's compensation insurance premiums of a**
 37 **temporary employment agency shall be determined and paid based**
 38 **on the experience rating of the client company for which the**

temporary employee performs services if the client company has sufficient worker's compensation premium volume to be experience rated. Otherwise, the premiums shall be the rate approved for an employer that cannot be experience rated.

Sec. 15. A temporary employment agency or client company shall not:

- (1) discharge;
- (2) discipline; or
- (3) penalize in any other manner;

a temporary employee because the temporary employee, or a person acting on behalf of the temporary employee, reports a violation or alleged violation of section 9, 10, 11, 12, or 13 of this chapter to the temporary employment agency or to a local or state official, or because the temporary employee, or a person acting on behalf of the temporary employee, exercises any right under this chapter.

Sec. 16. A temporary employment agency that violates section 9, 11, 12, 13, or 15 of this chapter commits a Class A misdemeanor.

Sec. 17. (a) A temporary employee may bring a civil action against a temporary employment agency to enforce section 10 of this chapter and seek compensation for charges made in violation of section 11 of this chapter within two (2) years after the alleged violation.

(b) If a temporary employment agency violates section 10 of this chapter, the court may do the following:

(1) Award:

(A) treble damages for loss of wages and other benefits; and

(B) court costs and reasonable attorney's fees; to the prevailing temporary employee.

(2) Enjoin further violations of this chapter by the temporary employment agency.

Sec. 18. (a) The department and its authorized inspectors and agents shall enforce this chapter. The department and its inspectors and agents may visit and inspect, at all reasonable hours and as often as practicable and necessary, all establishments governed by this chapter.

(b) When requested in writing by the department, the attorney

1 general shall assist the department in enforcing this chapter
2 against all violations.

3 (c) In addition to the civil action that may be brought by the
4 temporary employee under section 17(a) of this chapter, a
5 temporary employment agency that violates this chapter may be
6 assessed a civil penalty by the department of not less than two
7 thousand five hundred dollars (\$2,500) and not more than five
8 thousand dollars (\$5,000) for each offense. The department shall
9 collect the civil penalties and shall disburse the civil penalties as
10 reimbursement of wages to the temporary employees who have
11 been found by the department to have been damaged by the
12 temporary employment agency's failure to comply with this
13 chapter, with any remaining balance deposited in the state general
14 fund.

15 (d) A civil penalty assessed under subsection (c):

16 (1) is subject to IC 4-21.5-3-6; and

17 (2) becomes effective without a proceeding under IC 4-21.5-3
18 unless a person requests an administrative review not later
19 than thirty (30) days after notice of the assessment is given.

20 SECTION 64. IC 27-4-1-4, AS AMENDED BY P.L.130-2002,
21 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair
23 methods of competition and unfair and deceptive acts and practices in
24 the business of insurance:

25 (1) Making, issuing, circulating, or causing to be made, issued, or
26 circulated, any estimate, illustration, circular, or statement:

27 (A) misrepresenting the terms of any policy issued or to be
28 issued or the benefits or advantages promised thereby or the
29 dividends or share of the surplus to be received thereon;

30 (B) making any false or misleading statement as to the
31 dividends or share of surplus previously paid on similar
32 policies;

33 (C) making any misleading representation or any
34 misrepresentation as to the financial condition of any insurer,
35 or as to the legal reserve system upon which any life insurer
36 operates;

37 (D) using any name or title of any policy or class of policies
38 misrepresenting the true nature thereof; or

- 1 (E) making any misrepresentation to any policyholder insured
2 in any company for the purpose of inducing or tending to
3 induce such policyholder to lapse, forfeit, or surrender his
4 insurance.
- 5 (2) Making, publishing, disseminating, circulating, or placing
6 before the public, or causing, directly or indirectly, to be made,
7 published, disseminated, circulated, or placed before the public,
8 in a newspaper, magazine, or other publication, or in the form of
9 a notice, circular, pamphlet, letter, or poster, or over any radio or
10 television station, or in any other way, an advertisement,
11 announcement, or statement containing any assertion,
12 representation, or statement with respect to any person in the
13 conduct of his insurance business, which is untrue, deceptive, or
14 misleading.
- 15 (3) Making, publishing, disseminating, or circulating, directly or
16 indirectly, or aiding, abetting, or encouraging the making,
17 publishing, disseminating, or circulating of any oral or written
18 statement or any pamphlet, circular, article, or literature which is
19 false, or maliciously critical of or derogatory to the financial
20 condition of an insurer, and which is calculated to injure any
21 person engaged in the business of insurance.
- 22 (4) Entering into any agreement to commit, or individually or by
23 a concerted action committing any act of boycott, coercion, or
24 intimidation resulting or tending to result in unreasonable
25 restraint of, or a monopoly in, the business of insurance.
- 26 (5) Filing with any supervisory or other public official, or making,
27 publishing, disseminating, circulating, or delivering to any person,
28 or placing before the public, or causing directly or indirectly, to
29 be made, published, disseminated, circulated, delivered to any
30 person, or placed before the public, any false statement of
31 financial condition of an insurer with intent to deceive. Making
32 any false entry in any book, report, or statement of any insurer
33 with intent to deceive any agent or examiner lawfully appointed
34 to examine into its condition or into any of its affairs, or any
35 public official to which such insurer is required by law to report,
36 or which has authority by law to examine into its condition or into
37 any of its affairs, or, with like intent, willfully omitting to make a
38 true entry of any material fact pertaining to the business of such

insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and

1 indemnity, or other risks commonly insured under marine,
2 as distinguished from inland marine, insurance; or
3 (iii) policies or contracts of any other kind or kinds of
4 insurance whatsoever.

5 However, nothing contained in clause (C) shall be construed to
6 apply to any of the kinds of insurance referred to in clauses (A)
7 and (B) nor to reinsurance in relation to such kinds of insurance.
8 Nothing in clause (A), (B), or (C) shall be construed as making or
9 permitting any excessive, inadequate, or unfairly discriminatory
10 charge or rate or any charge or rate determined by the department
11 or commissioner to meet the requirements of any other insurance
12 rate regulatory law of this state.

13 (8) Except as otherwise expressly provided by law, knowingly
14 permitting or offering to make or making any contract or policy
15 of insurance of any kind or kinds whatsoever, including but not in
16 limitation, life annuities, or agreement as to such contract or
17 policy other than as plainly expressed in such contract or policy
18 issued thereon, or paying or allowing, or giving or offering to pay,
19 allow, or give, directly or indirectly, as inducement to such
20 insurance, or annuity, any rebate of premiums payable on the
21 contract, or any special favor or advantage in the dividends,
22 savings, or other benefits thereon, or any valuable consideration
23 or inducement whatever not specified in the contract or policy; or
24 giving, or selling, or purchasing or offering to give, sell, or
25 purchase as inducement to such insurance or annuity or in
26 connection therewith, any stocks, bonds, or other securities of any
27 insurance company or other corporation, association, limited
28 liability company, or partnership, or any dividends, savings, or
29 profits accrued thereon, or anything of value whatsoever not
30 specified in the contract. Nothing in this subdivision and
31 subdivision (7) shall be construed as including within the
32 definition of discrimination or rebates any of the following
33 practices:

34 (A) Paying bonuses to policyholders or otherwise abating their
35 premiums in whole or in part out of surplus accumulated from
36 nonparticipating insurance, so long as any such bonuses or
37 abatement of premiums are fair and equitable to policyholders
38 and for the best interests of the company and its policyholders.

- 1 (B) In the case of life insurance policies issued on the
2 industrial debit plan, making allowance to policyholders who
3 have continuously for a specified period made premium
4 payments directly to an office of the insurer in an amount
5 which fairly represents the saving in collection expense.
- 6 (C) Readjustment of the rate of premium for a group insurance
7 policy based on the loss or expense experience thereunder, at
8 the end of the first year or of any subsequent year of insurance
9 thereunder, which may be made retroactive only for such
10 policy year.
- 11 (D) Paying by an insurer or agent thereof duly licensed as such
12 under the laws of this state of money, commission, or
13 brokerage, or giving or allowing by an insurer or such licensed
14 agent thereof anything of value, for or on account of the
15 solicitation or negotiation of policies or other contracts of any
16 kind or kinds, to a broker, agent, or solicitor duly licensed
17 under the laws of this state, but such broker, agent, or solicitor
18 receiving such consideration shall not pay, give, or allow
19 credit for such consideration as received in whole or in part,
20 directly or indirectly, to the insured by way of rebate.
- 21 (9) Requiring, as a condition precedent to loaning money upon the
22 security of a mortgage upon real property, that the owner of the
23 property to whom the money is to be loaned negotiate any policy
24 of insurance covering such real property through a particular
25 insurance agent or broker or brokers. However, this subdivision
26 shall not prevent the exercise by any lender of its or his right to
27 approve or disapprove of the insurance company selected by the
28 borrower to underwrite the insurance.
- 29 (10) Entering into any contract, combination in the form of a trust
30 or otherwise, or conspiracy in restraint of commerce in the
31 business of insurance.
- 32 (11) Monopolizing or attempting to monopolize or combining or
33 conspiring with any other person or persons to monopolize any
34 part of commerce in the business of insurance. However,
35 participation as a member, director, or officer in the activities of
36 any nonprofit organization of agents or other workers in the
37 insurance business shall not be interpreted, in itself, to constitute
38 a combination in restraint of trade or as combining to create a

monopoly as provided in this subdivision and subdivision (10).
The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, agent, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during

- 1 the flight to which the ticket relates;
- 2 (ii) insures against personal injury or property damage that
- 3 occurs during travel to or from the airport in a common
- 4 carrier immediately before or after the flight;
- 5 (iii) insures against baggage loss during the flight to which
- 6 the ticket relates; or
- 7 (iv) insures against a flight cancellation to which the ticket
- 8 relates.
- 9 (14) Refusing, because of the for-profit status of a hospital or
- 10 medical facility, to make payments otherwise required to be made
- 11 under a contract or policy of insurance for charges incurred by an
- 12 insured in such a for-profit hospital or other for-profit medical
- 13 facility licensed by the state department of health.
- 14 (15) Refusing to insure an individual, refusing to continue to issue
- 15 insurance to an individual, limiting the amount, extent, or kind of
- 16 coverage available to an individual, or charging an individual a
- 17 different rate for the same coverage, solely because of that
- 18 individual's blindness or partial blindness, except where the
- 19 refusal, limitation, or rate differential is based on sound actuarial
- 20 principles or is related to actual or reasonably anticipated
- 21 experience.
- 22 (16) Committing or performing, with such frequency as to
- 23 indicate a general practice, unfair claim settlement practices (as
- 24 defined in section 4.5 of this chapter).
- 25 (17) Between policy renewal dates, unilaterally canceling an
- 26 individual's coverage under an individual or group health
- 27 insurance policy solely because of the individual's medical or
- 28 physical condition.
- 29 (18) Using a policy form or rider that would permit a cancellation
- 30 of coverage as described in subdivision (17).
- 31 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
- 32 vehicle insurance rates.
- 33 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 34 to interest rate guarantees.
- 35 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 36 coverage for victims of abuse.
- 37 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 38 (23) Violating IC 27-1-15.6-3(b) concerning licensure of

1 insurance producers.

2 (24) Violating IC 27-1-38 concerning depository institutions.

3 **(25) Violating IC 22-3-3-13 concerning second injury fund**
 4 **assessments.**

5 **(26) Violating IC 22-3-7-16.1 concerning occupational disease**
 6 **second injury fund assessments.**

7 SECTION 65. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding
 8 IC 5-16-7-6, as added by this act, the department of labor shall
 9 carry out the duties imposed upon it under IC 5-16-7, as amended
 10 by this act, under interim written guidelines approved by the
 11 commissioner of the department of labor.

12 (b) This SECTION expires on the earlier of:

13 (1) the date rules are adopted under IC 5-16-7-6, as added by
 14 this act; or

15 (2) December 31, 2003.

16 SECTION 66. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding
 17 IC 22-1-1-22, as added by this act, the department of labor shall
 18 carry out the duties imposed upon it under IC 22-1-1-22, as added
 19 by this act, under interim written guidelines approved by the
 20 commissioner of the department of labor.

21 (b) This SECTION expires on the earlier of:

22 (1) the date rules are adopted under IC 22-1-1-22, as added by
 23 this act; or

24 (2) March 1, 2004.

25 SECTION 67. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding
 26 IC 22-4-43-13, as added by this act, the unemployment insurance
 27 board shall carry out the duties imposed upon it under
 28 IC 22-4-43-13, as added by this act, under interim written
 29 guidelines recommended by the commissioner of workforce
 30 development and approved by the unemployment insurance board.

31 (b) This SECTION expires on the earlier of the following:

32 (1) The date rules are adopted under IC 22-4-43-13, as added
 33 by this act.

34 (2) December 31, 2004.

35 SECTION 68. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding
 36 IC 22-4-44-11, as added by this act, the department of workforce
 37 development shall carry out the duties imposed upon it under
 38 IC 22-4-44-11, as added by this act, under interim written

1 **guidelines recommended by the commissioner of workforce**
 2 **development and approved by the incumbent workers training**
 3 **board and the unemployment insurance board.**

4 **(b) This SECTION expires on the earlier of the following:**

5 **(1) The date rules are adopted under IC 22-4-44-11, as added**
 6 **by this act.**

7 **(2) December 31, 2004.**

8 SECTION 69. [EFFECTIVE JULY 1, 2003] **(a) The department**
 9 **of workforce development shall adopt rules under IC 22-4-2-12, as**
 10 **amended by this act, before January 1, 2005.**

11 **(b) This SECTION expires January 2, 2005.**

12 SECTION 70. IC 22-4-10.5-1 IS REPEALED [EFFECTIVE JULY
 13 1, 2003].".

14 Renumber all SECTIONS consecutively.

(Reference is to HB 1003 as introduced.)

and when so amended that said bill do pass.

Representative Liggett